

Title XI - ZONING, PLANNING AND ANNEXATIONS

Chapter 5 - MEDICAL AND ADULT-USE CANNABIS USES

Sections:

XI-5-1.00 - Purpose

[TBD]

XI-5-2.00 - Definitions

For purposes of this Chapter, the following definitions shall apply:

- A. "Cannabis" means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from marijuana. "Cannabis" also includes marijuana as defined by Section 11018 of the Health and Safety Code. Cannabis also includes "cannabis" as defined in Business and Professions Code, Section 26001.
- B. "Cannabis cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.
- C. "Cannabis delivery" means the commercial transfer of cannabis or cannabis products to a customer. "Delivery" also includes the use by a cannabis retailer of any technology platform that enables customers to arrange for or facilitate the commercial transfer by a licensed retailer of cannabis or cannabis products.
- D. "Cannabis distribution" means the procurement, sale, and transport of cannabis and cannabis products and any other activity allowed under the state cannabis distributor license(s), including, but not limited to, cannabis storage, quality control and collection of state cannabis taxes.
- E. "Cannabis manufacture" means to compound, blend, extract, infuse, or otherwise make or prepare a cannabis product. Cannabis manufacture includes the production, preparation, propagation, or compounding of manufactured cannabis, or cannabis

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products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages medical cannabis or cannabis products or labels or relabels its container.

- F. “Cannabis products” means cannabis that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing cannabis or concentrated cannabis and other ingredients. Cannabis products include “cannabis products” as defined in Business and Professions Code, Section 26001.
- G. “Cannabis retailer” means a facility where cannabis or cannabis products are offered, either individually or in any combination, for retail sale, including an establishment that delivers cannabis and cannabis products as part of a retail sale or conducts sales exclusively by delivery (non-storefront retailers). For purposes of this chapter, the term “cannabis retailer” includes microbusinesses as well as nonprofits licensed under Business and Professions Code, Section 26070.5. For purposes of this chapter, “cannabis retailer” also includes medical cannabis dispensaries, patient collectives and cooperatives operating, or proposing to operate, pursuant to the Compassionate Use Act (Health and Safety Code Section 11362.5) and/or the Medical Marijuana Program Act (Health and Safety Code Section 11362.7 et seq.), as may be amended.
- H. “Cannabis testing laboratory” means a facility, entity, or site in the state that offers or performs tests of cannabis or cannabis products and that is both of the following:
 - (1) Accredited by an accrediting body that is independent from all other persons involved in commercial cannabis activity in the state; and
 - (2) Licensed by the Bureau of Cannabis Control.
- I. “Commercial cannabis uses” includes all cannabis cultivation, cannabis manufacture, cannabis distribution, cannabis testing laboratories, cannabis retailers, cannabis delivery, and sale of cannabis and/or cannabis products, whether intended for medical or adult-use, and whether or not such activities are carried out for profit. Commercial cannabis uses includes “commercial cannabis activity” as defined in Business and Professions Code, Section 26001, and includes any activity that requires a license from a state licensing authority pursuant to the Medicinal and Adult-Use Cannabis Regulation and Safety Act, Business and Professions Code, Division 10, as may be amended. Commercial cannabis activity does not include possession or indoor cultivation of

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cannabis for personal use that is not sold and in strict accordance with Health and Safety Code, Section 11362.1 et seq. For ease of reference, commercial cannabis uses may also be referred to as commercial cannabis businesses.

- J. "Indoor" means any location that is totally contained within a fully enclosed and secure private residence or accessory building located on the grounds of the private residence.
- K. "Outdoor" means any location that is not totally contained within a fully enclosed and secure accessory building or primary residence.
- L. "Private residence" means a house, an apartment unit, accessory dwelling unit, a mobile home, or other similar dwelling occupied for residential purposes.
- M. "State licensing agency" means the state agency responsible for the issuance, renewal, or reinstatement of a state license pursuant to Medicinal and Adult-Use Cannabis Regulation and Safety Act, Business and Professions Code, Division 10, as may be amended. The state licensing agencies are commonly known as the Bureau of Cannabis Control within the Department of Consumer Affairs, the CalCannabis Cultivation Licensing Program within the Department of Food and Agriculture and the California Department of Public Health's Manufactured Cannabis Safety Branch.

XI-5-3.00 - Indoor Cannabis Cultivation for Personal Use

OPTION 1: NO SPECIFIC INDOOR CULTIVATION REGULATIONS

The indoor cultivation of cannabis is prohibited except to the extent that state law permits the indoor cultivation of up to six cannabis plants for personal use per private residence. Persons engaging in indoor cultivation must comply with all state and local laws regarding fire safety, water use, electrical wiring, buildings, and indoor cultivation and personal use of cannabis.

OPTION 2: ADD INDOOR PERSONAL CULTIVATION REGULATIONS

Within the city of Milpitas, the cultivation of cannabis is prohibited. Notwithstanding the foregoing and as provided by state law, it is not a violation of this section for an individual, who resides in a private residence located on the same parcel as the plant(s), to cultivate for his or her personal use, no more than six cannabis plants indoors. Indoor cultivation shall be subject to the following limitations:

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1. No more than six cannabis plants per private residence may be cultivated regardless of the number of individuals residing at the residence.
2. The plants shall not be visible from a public right-of-way, other public place, or adjacent parcel(s).
3. Structures and equipment used for indoor cultivation, such as indoor grow lights, shall comply with all applicable building, electrical and fire code regulations as adopted by the city.
4. The plants must be kept in a locked space within a fully enclosed and secure structure.
5. Nothing in this section is intended to authorize any public or private nuisance due to odor, light, glare or as otherwise specified in chapter ____ of this code.
6. Indoor grow lights shall not exceed _____ watts per light.
7. The use of gas products (CO2, butane, propane, natural gas, etc.) or generators for cultivation of cannabis is prohibited.
8. Other?

OPTION 3: ALLOW MORE CULTIVATION BY QUALIFIED PATIENTS/PRIMARY CAREGIVERS

Qualified patients and primary caregivers, as defined by Health and Safety Code, Section 11362.7, may cultivate up to __ cannabis plants per private residence, subject to the standards for indoor cultivation listed above.

OPTIONAL DISCLAIMER LANGUAGE:

Nothing herein shall be construed to authorize the commercial cultivation of cannabis, or other cannabis cultivation for sale, within the City of Milpitas.

XI-5-3.00 - Outdoor Cannabis Cultivation for Personal Use

OPTION 1: PROHIBIT OUTDOOR CULTIVATION

Outdoor cultivation of cannabis, including cannabis cultivation for personal medical use, personal adult-use, or commercial purposes is prohibited in all zoning districts in the City of Milpitas.

OPTION 2: ALLOW OUTDOOR PERSONAL CULTIVATION

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Within the city of Milpitas, the cultivation of cannabis is prohibited. Notwithstanding the foregoing and in accordance with state law, it is not a violation of this section for an individual, who resides in a private residence located on the same parcel as the plant(s), to cultivate for his or her personal use, no more than six cannabis plants outdoors. Outdoor cultivation shall be subject to the following limitations:

1. No more than six cannabis plants per private residence are allowed to be cultivated either indoors or outdoors, or a combination of both indoors and outdoors, regardless of the number of individuals residing at the residence.
2. The plants shall not be visible from a public right-of-way, other public place, or adjacent parcel(s).
3. No part of a plant is within _____ feet of any property line.
4. All plants must be kept within a locked space (e.g. enclosed within a locked gate).
5. Other? E.g. plant height limits, fencing materials, etc.

OPTION 3: ALLOW MORE CULTIVATION BY QUALIFIED PATIENTS/PRIMARY CAREGIVERS

Qualified patients and primary caregivers, as defined by Health and Safety Code, Section 11362.7, may cultivate up to ___ cannabis plants per private residence, subject to the standards for outdoor cultivation listed above.

XI-5-4.00 – Commercial Cannabis Uses – Medical and Adult-Use

OPTION 1: PROHIBIT COMMERCIAL CANNABIS USES

- A. All commercial cannabis uses, as defined herein, shall be considered prohibited uses in all zoning districts of the City. No use permit, variance, building permit, or any other entitlement or permit, whether administrative or discretionary, shall be approved or issued for the establishment or operation of a commercial cannabis use in any zoning district, and no person shall otherwise establish such businesses or operations in any zoning district.

→ For clarity and ease of reference, consider adding specific prohibitions to Home Occupation regulations.

→ Consider adding language expressly prohibiting deliveries originating from outside the jurisdiction.

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OPTION 2: PROHIBIT COMMERCIAL CANNABIS USES FROM ESTABLISHING IN MILPITAS BUT ALLOW DELIVERIES ORIGINATING OUTSIDE OF THE JURISDICTION TO SERVE CUSTOMERS IN THE CITY

1. Exception for deliveries from licensed cannabis retailers. Cannabis retailers, as defined in this chapter, whether medical or adult-use, are prohibited in the City; however, delivery of cannabis and cannabis products from cannabis retailers physically located outside of the City of Milpitas is allowed, subject to the following restrictions:
 - a. Only cannabis retailers that are licensed under the applicable laws of the state of California to provide cannabis deliveries, including but not limited to, the Medicinal and Adult-Use Cannabis Regulation and Safety Act (Business and Professions Code, Section 26000 et seq.), and operating in compliance with the applicable laws and regulations of the local jurisdiction in which the cannabis retailer is physically located may provide cannabis delivery to customers in the City of Milpitas.
 - b. TBD - Other?

OPTION 3: ALLOW ONE OR MORE COMMERCIAL CANNABIS USES

- A. **Purpose.** The purpose of this Section is to impose zoning restrictions on various commercial cannabis uses authorized and/or licensed by the State of California pursuant to State law. This section is not intended to give any person or entity independent legal authority to operate a cannabis business, it is intended simply to impose zoning restrictions regarding commercial cannabis uses that may operate in the City pursuant to this Code and State law. This Section is in addition to any other business license and regulatory requirements imposed on commercial cannabis businesses by this Code or other applicable State law.
- B. **General Conditions.**
 1. Commercial cannabis uses are prohibited from establishing or operating in all zoning districts in the City except as expressly permitted by and in conformance with the provisions of this Section.
 2. All commercial cannabis uses permitted by this Section must, prior to establishing and operating any such commercial cannabis business, obtain and maintain at all times a valid license issued by the State, as may be applicable, and

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any other local or regulatory licenses, permits or registrations required by this Code.

3. No commercial cannabis business may engage in retail sales of cannabis or other sales directly to consumers unless expressly permitted or conditionally permitted by this Section.

General Policy Questions for Cannabis Businesses (ALL)

1. Type of permitting scheme(s).

The City has discretion to choose how to regulate cannabis businesses. At a minimum, changes will have to be made to the City's land use regulations (zoning) to regulate cannabis businesses.

- a. Zoning/Land Use Permits. Within the context of zoning regulations, the City could choose to:
 - i. Allow cannabis businesses, subject to the rules applicable to the most closely analogous use. For example, commercial laboratories are a permitted use in industrial zones and not permitted, conditionally permitted or permitted in various commercial zones. If the code were amended to allow cannabis testing laboratories subject to the same zoning standards as other commercial laboratories, this means there would be some instances that cannabis testing laboratories would not need a discretionary zoning permit from the city.
 - ii. Allow cannabis businesses subject to a conditional use permit (CUP) issued by the Planning Commission, or if desired, by the City Council. The default under the City Code is that CUPs are reviewed by the Planning Commission. (MMC §XI-10-57.04.) The City could also require the use of a development agreement as a way to tie in fiscal considerations until a tax measure is adopted by voters.
 - iii. Allow cannabis businesses subject to a minor CUP issued by the Planning Commission Subcommittee or Planning Staff. This might be appropriate for smaller scale, less controversial types of uses.
 - iv. Use of an overlay zone. If the City wanted to start out allowing commercial cannabis businesses in a particular area of the City, an overlay zone could be used.

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v. Require reimbursement agreements. The City could require reimbursement agreements for considering commercial cannabis use applications.

b. Business Permits. This draft ordinance addresses the zoning for cannabis businesses. Many cities have opted to also regulate cannabis businesses through a business permit. This is because CUPs run with the land and cannot be conditioned on non-transferability. Requirements that may need to change based on state regulatory changes or public safety needs or that are specific to the business owner (e.g. background checks) may be better addressed via a business regulatory permit structure. Samples of other cities' business regulatory permits are included with the materials for this subcommittee meeting.

2. Co-location.

To what extent does the City want to allow different commercial cannabis businesses to co-locate? State law now allows a single premises to hold multiple licenses. So, the City should consider whether it desires to allow multiple uses at the same site.

C. Cannabis Manufacturers.

1. Level 1 Manufacturing. Cannabis manufacturing that does not involve volatile solvents may be permitted, subject to the requirements of this section and the granting of an Conditional Use Permit as provided in Section _____, in the following zones:

i. _____

ii. _____

2. Level 2 Manufacturing. Cannabis manufacturing that involves volatile solvents may be permitted, subject to the requirements of this section and the granting of an Conditional Use Permit as provided in Section _____, in the following zones:

i. _____

ii. _____

3. Cannabis manufacturers are subject to the following zoning standards and locational restrictions:

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i. _____

D. Cannabis Testing Laboratories.

1. Cannabis testing laboratories may be permitted, subject to the requirements of this section and the granting of an Conditional Use Permit as provided in Section _____, in the following zones:

i. _____

ii. _____

2. Cannabis testing laboratories are subject to the following zoning standards and locational restrictions:

i. _____

E. Cannabis Distribution Facilities.

1. Cannabis distribution facilities may be permitted, subject to the requirements of this section and the granting of a Conditional Use Permit as provided in Section _____, in the following zones:

i. _____

ii. _____

2. Cannabis distribution facilities are subject to the following zoning standards and locational restrictions:

i. _____

SAMPLE REQUIREMENTS FOR NON-RETAIL FACILITIES:

- i. Entrances. All entrances shall be secured in a manner that only enables entry of authorized persons.
- ii. Secured Areas. Each cultivation area, manufacture area, and storage area shall be within the secured area. No person under 21 years of age shall be allowed to enter a secured area. Secured areas shall be fully secure, with every entrance, window, skylight, or other opening lockable and kept locked when not in active use by employees of the facility.
- iii. Onsite Management. Each facility shall have a manager on duty on the premises during all times the use is operating. Each manager's name shall be provided to the City Manager or his or her designee. The City Manager of his or her designee may

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establish procedures for performing background checks on managers.

- iv. Odors / Air Filtration systems. Facilities shall not result in the creation of any odors detectable from anywhere off the property boundaries. The use of air filtration systems or other mitigation measures shall be used on all cultivation facilities and operations.
- v. Other?

F. Cannabis Cultivation Facilities.

1. Cannabis cultivation facilities may be permitted, subject to the requirements of this section and the granting of a Conditional Use Permit as provided in Section _____, in the following zones:
 - i. _____
2. Cannabis cultivation facilities are subject to the following zoning standards and locational restrictions:

OPTION: CalCannabis will issue 17 types of cannabis cultivation licenses depending on the size and type of light used to grow. Does the City wish to limit the type of cultivation facilities allowed, such as:

- Indoor vs. outdoor/mixed?
- By square footage?
- Other?

SAMPLE REQUIREMENTS TO LIMIT CULTIVATION TO INDOORS ONLY:

- i. Interior/Enclosed Cultivation. All cultivation shall be conducted only in the interior of enclosed structures, facilities and buildings and all cultivation operations including all cannabis plants at any stage of growth shall not be visible from the exterior of any structure, facility or building containing the cultivation of cannabis.
- ii. Indoor Cultivation. All cannabis cultivation must take place indoors, within a permanent structure that is enclosed on all sides.
- iii. Outdoor Cultivation Prohibited. Outdoor cannabis cultivation shall be prohibited.
- iv. No Non-Permanent Structures. Portable greenhouses and/or prefabricated non-permanent enclosures shall not be used for cultivation

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unless they are placed inside of a permanent structure that is enclosed on all sides.

- v. Odors / Air Filtration systems. Cultivation facilities shall not result in the creation of any odors detectable from anywhere off the property boundaries. The use of air filtration systems or other mitigation measures shall be used on all cultivation facilities and operations.
- vi. Other? E.g. minimum lot size requirements, maximum cultivation area requirements, etc.

Policy Questions for Non-Retail Cannabis Businesses
(Manufacturing, Testing, Distribution and Cultivation)

1. *Locational requirements/buffers.*

Under state law, any premises licensed under MAUCRSA is prohibited from locating within 600 feet of a school, youth center or daycare. The City has discretion to specify a different radius (greater or lesser). The City could also consider buffers near sensitive uses to be identified (e.g. parks, religious facilities, residential zones, etc.) to protect youth, community character or reduce the potential for land use conflicts.

2. *Distance requirements.*

Although state law allows the state licensing authorities to consider whether an excessive concentration of licenses will exist, there is no strict limit in state law on how close cannabis businesses may locate to one another. The City could consider distance requirements from other cannabis retailers/cannabis businesses. For example, prohibiting businesses from locating within 1,000 feet of another cannabis business.

3. *Limitation on number of businesses.*

The City may choose to adopt a limit on the number of cannabis businesses as a pure quantitative limit or choose a limit based on a ratio (e.g. by square footage) of an overlay zone or census tract, as two examples. There could be separate limits (or sub-limits) on different types of cannabis businesses. There could also be limits on the number of new permits issued per year. For example, the City of Oakland limits new medical dispensary permits to eight per year.

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4. Operational requirements.

The City may impose operational standards to cannabis businesses such as hours of operation, security cameras/security plans, odor control requirements, and minimum safety or staffing requirements. Alternatively, some or all of these standards could be specifically addressed on the individual site level via a conditional use permit or on the individual business level via a business permit. These latter options may be desirable to add flexibility to the development process.

G. Cannabis Retail Facilities.

1. Cannabis retailers may be permitted, subject to the requirements of this section and the granting of a Conditional Use Permit as provided in Section _____, in the following zones:

- i. _____
- ii. _____

2. Cannabis retailers are subject to the following zoning standards and locational restrictions:

- i. _____

OPTION: The City could have different rules and standards for different types of retailers, including:

- i. Storefront retailers
- ii. Non-storefront retailers
- iii. Retail with onsite cultivation
- iv. Microbusinesses (combination of licensed activities)

Policy Questions for Cannabis Retailers
Zoning Standards and Locational Restrictions

1. Medical versus Adult-Use.

Does the City wish to allow both medical and adult-use sales, or limit to medical sales only?

2. Locational requirements/buffers.

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Under state law, cannabis retailers are prohibited from locating within 600 feet of a school, youth center or daycare. The City has discretion to specify a different radius (greater or lesser). The City could also consider buffers near parks, religious facilities, residential zones, or other sensitive uses to protect youth, community character or reduce the potential for land use conflicts.

3. *Distance requirements.*

Although state law allows the Bureau to consider whether an excessive concentration of retailers will exist, there is no strict limit in state law on how close cannabis retailers may locate to one another. The City could consider distance requirements from other cannabis retailers/cannabis businesses. For example, prohibiting retailers from locating within 1,000 feet of another cannabis retailer.

4. *Limitation on number of businesses.*

The City may choose to adopt a limit on the number of cannabis retailers as a pure quantitative limit. There could be separate limits (or sub-limits) on recreational and medical retailers, or sub-limits on storefront and non-storefront retailers. MAUCRSA also provides an option to adopt a ratio of retail licenses, microbusiness licenses, or nonprofit licenses to the population in the census tract, census division, or jurisdiction as a whole. This could be an overall limitation throughout the City and/or limitations on the number of new permits issued per year. For example, the City of Oakland limits new medical marijuana permits to eight per year.

5. *Operational requirements.*

The City may impose operational standards to cannabis retailers such as hours of operation, security cameras/security plans, odor control requirements, and minimum staffing requirements. Alternatively, some or all of these standards could be specifically addressed in a cannabis retailer conditional use permit or a business permit. This may be desirable to add flexibility to the development process.

6. *Whether to allow consumption on premises.*

Local jurisdictions may allow onsite consumption of cannabis if access is restricted to those 21 years of age and over, consumption is not visible from a public place or non-age restricted area, and sale of alcohol and tobacco is prohibited on premises. (BPC § 26200(g).)

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No person, whether as principal, agent, employee or otherwise, shall violate, cause the violation of, or otherwise fail to comply with any of the requirements of this Chapter. Every act prohibited or declared unlawful, and every failure to perform an act made mandatory by this Chapter, shall be an infraction. In addition to the penalties provided in this Chapter, any condition caused or permitted to exist in violation of any of the provisions of this Chapter is declared a public nuisance and may be abated as provided in Title V, Chapter 1100 and/or under State law.

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Zoning Work Sheet

Commercial Zone Uses, per Table XI-10-5.02-1

Use	CO	C1	C2	HS	TC
Cannabis cultivation (include subtypes?)					
Cannabis distribution					
Cannabis manufacturer – Level 1					
Cannabis manufacturer – Level 2					
Cannabis retailer - storefront					
Cannabis retailer – non-storefront					
Cannabis testing laboratory					

Industrial Use Zones, per MMC Section XI-10-7.02

Use	M1	M2	MP
Cannabis cultivation (include subtypes?)			
Cannabis distribution			
Cannabis manufacturer – Level 1			
Cannabis manufacturer – Level 2			
Cannabis retailer - storefront			
Cannabis retailer – non-storefront			
Cannabis testing laboratory			

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Mixed Use Zones, per Table XI-10-6.02-1

Use	MXD	MXD2 GL	MXD2 UF	MXD3
Cannabis cultivation (include subtypes?)				
Cannabis distribution				
Cannabis manufacturer – Level 1				
Cannabis manufacturer – Level 2				
Cannabis retailer - storefront				
Cannabis retailer – non-storefront				
Cannabis testing laboratory				

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21.04.010 Definitions and scope.

- (a) This article applies to cannabis retailers, as those businesses are defined and regulated by Article 40.26B of the Zoning Code.
- (b) This article applies to any cannabis retailer operating from a physical premises located in the city, regardless of whether the cannabis retailer sells medical or adult-use cannabis or performs sales exclusively by delivery. For purposes of this article, a cannabis retailer shall be referred to as a “retail cannabis business.” (Ord. 2515 § 2, 2017)

21.04.020 Retail cannabis business permit required.

No person shall operate a retail cannabis business without obtaining a valid retail cannabis business permit issued pursuant to this article. (Ord. 2515 § 2, 2017)

21.04.030 Retail cannabis business permit program fee.

The retail cannabis business permit program fee is hereby established and imposed. The city council shall establish by resolution the amount of the retail cannabis permit program fees, and any related penalties. (Ord. 2515 § 2, 2017)

21.04.040 Applications for retail cannabis business permit.

- (a) A person may apply for a retail cannabis business permit, or a permit renewal, by filing an application with the police chief. The application shall be on a form approved by the police chief and may require any information or documentation consistent with the provisions of this code and state law, including the following:
 - (1) Applicant.
 - (A) A description of the statutory entity or business form that will serve as the legal structure for the applicant and a copy of its formation and organizing documents, including, but not limited to, articles of incorporation, bylaws, fictitious business name statement, or other documents that adequately reflect the legal and ownership status of the entity.
 - (B) The phone number and address to which notice of action on the application and correspondence is to be mailed.
 - (2) Interested Parties.
 - (A) The name, address, telephone number, title, and function of each of the interested parties in the cannabis business.
 - (B) For each of the interested parties identified pursuant to subsection (2)(A):
 - i. A legible copy of one valid government-issued form of photo identification, such as a state driver’s license, a passport issued by the United States, or a permanent resident card.

- ii. A list of his or her misdemeanor and felony convictions, if any. For each conviction, the list must set forth the date of arrest, the offense charged, the offense convicted, the jurisdiction of the court, and whether the conviction was by verdict, plea of guilty, or plea of nolo contendere.
 - iii. Consent to fingerprinting and a criminal background investigation.
- (3) Retail Cannabis Business Site.
 - (A) Description. A general description of the proposed retail cannabis business site, including the street address, parcel number, total square footage of the site, and the characteristics of the surrounding area.
 - (B) Floor Plan. A scaled floor plan for each level of each building that makes up the business site, including the entrances, exits, walls, cannabis storage areas and customer-access areas, as applicable.
 - (C) Site Plan. A scaled site plan of the business site, including all buildings, structures, driveways, parking lots, landscape areas, and boundaries.
 - (D) Compliance with the Zoning Code. A copy of a valid conditional use permit approved by the city for the proposed location. If the applicant pursues simultaneous land use and business permit application approvals, submission of a retail cannabis business permit application prior to obtaining a valid use permit shall be at the applicant's sole risk.
 - (E) Statement of Owner's Consent. Written consent of the owner or landlord of the proposed site to operate a retail cannabis business, specifying the street address and parcel number.
- (4) Security.
 - (A) Security Plan. A detailed security plan outlining the measures that will be taken to ensure the safety of persons and property on the business site. The security plan should be reasonably designed to prevent unauthorized entrance into areas containing cannabis or cannabis products and theft of cannabis or cannabis products from the premises. The security plan must be prepared by a qualified professional. Additionally, the security plan shall address the following:
 - i. Designated limited access areas, as required by this article and state law, that are accessible only by authorized personnel, and the measures that will be taken to ensure the security of such areas.
 - ii. The security features that will be present at the premises, such as locks, safes, vaults, alarms and security cameras, designed to prevent diversion, theft, and loss of cannabis, cannabis products, or other goods and money.
 - iii. Detailed procedures to ensure the safe storage, handling, transfer and transport of cash.
 - (B) Lighting Plan. A lighting plan showing existing and proposed exterior and interior lights that will provide adequate security lighting for the use.
- (5) Odor Control. A detailed ventilation plan describing the air treatment system, or other methods that will be implemented to prevent offensive odors from being detected outside the building.
- (6) Business Operations.
 - (A) Business Plan. A plan describing how the retail cannabis business will operate in accordance with this code, state law, and other applicable regulations. The business plan must include the following:

- i. Hours of operation;
- ii. Whether the business intends to sell medical or adult-use cannabis;
- iii. Whether the business intends to conduct delivery retail services and, if so, a plan for conducting the deliveries in accordance with this article and state law.

(B) Community Relations Plan. A plan describing who is designated as being responsible for outreach and communication with the surrounding community, including the neighborhood and businesses, and how the designee can be contacted.

(C) Community Benefits. The applicant must include a description of the community benefit the business will provide, or proposes to provide, to the surrounding community. If a community benefit proposal has already been considered and approved as part of the applicant's use permit, the community benefit plan approved for the use permit shall satisfy this requirement.

(D) Neighborhood Responsibility Plan. The neighborhood responsibility plan must address any potential effects of the retail cannabis business on the surrounding neighborhood area.

(E) State Licenses. Copies of the applicant's state licenses relating to cannabis, as required by state law. If the applicant applies for a retail cannabis business permit prior to the state issuing the appropriate licenses, the applicant shall specify which state license(s) will be obtained once the state begins issuing licenses.

(F) Tax Compliance. A current copy of the applicant's city business license tax certificate, state sales tax seller's permit, and the applicant's most recent year's financial statement and tax returns, as may be applicable.

(G) Insurance. The applicant's certificate of commercial general liability insurance and endorsements and certificates of all other insurance related to the operation of the cannabis business.

(H) Budget. A copy of the applicant's most recent annual budget for operations.

(I) Price List. A list of the most recent prices for all products and services provided by the applicant.

(7) City Authorization. Authorization and consent for the police chief to seek verification of the information contained within the application.

(8) Applicant's Certification. A statement dated and signed by the applicant, under penalty of perjury, that the applicant has personal knowledge of the information contained in the application, that the information contained therein is true and correct, and that the application has been completed under the applicant's supervision.

(9) Indemnification. An agreement, on a form approved by the city attorney, whereby the applicant:

(A) Releases the city, and its agents, officers, elected officials, and employees from any and all claims, injuries, damages, or liabilities of any kind arising from: (i) any repeal or amendment of this chapter or any provision of the Zoning Code relating to the retail cannabis business, and (ii) any arrest or prosecution of the applicant or its managers, employees, or members for violation of state or federal laws; and

(B) Defends, indemnifies, and holds harmless the city and its agents, officers, elected officials, and employees from and against any and all claims or actions: (i) brought by adjacent or nearby property owners or any other parties for any damages, injuries, or other liabilities of any kind arising from operations at the retail business site, and (ii) brought by

any party for any problems, injuries, damages, or other liabilities of any kind arising out of the distribution of cannabis or cannabis products at the business site.

- (b) Every application for a retail cannabis business permit shall be accompanied by a nonrefundable retail cannabis business permit program fee.
- (c) No person shall knowingly make a false statement of fact or knowingly omit any information that is required in an application for a retail cannabis business permit. (Ord. 2515 § 2, 2017)

21.04.050 Application process.

The police chief, in consultation with the city manager and community development and sustainability director or his or her designee, is authorized to establish procedures and guidelines to process retail cannabis business permit applications. (Ord. 2515 § 2, 2017)

21.04.060 Denial of a retail cannabis business permit.

- (a) The police chief may deny a retail cannabis business permit if the police chief determines that one or more of the following circumstances exist:
 - (1) The application received is incomplete, filed late, or not responsive to the requirements of this article;
 - (2) The application contains a false or misleading statement or omission of a material fact;
 - (3) The operation of the business site described in the application fails to comply with any of the requirements in this code, state law, or any other regulation;
 - (4) The applicant or any of its managers has any unpaid and overdue administrative penalties imposed for violations of this chapter;
 - (5) Within twelve months of the date of application, either the applicant has had a state or local cannabis-related land use or business permit revoked; or any of its managers were associated with a cannabis business that had its cannabis-related permit(s) revoked; or
 - (6) Operation of the proposed retail cannabis business site, as represented in the application, is a threat to the public health, safety, or welfare.
- (b) The denial of a retail cannabis business permit is subject to and shall comply with Article 21.02. (Ord. 2515 § 2, 2017)

21.04.070 Terms of retail cannabis business permit.

- (a) A retail cannabis business permit issued pursuant to this article is valid for one year from the date that the permit is issued, unless suspended or revoked sooner.
- (b) A retail cannabis business permit is valid for only one retail cannabis business site.
- (c) The permittee shall notify the police chief of any change in the information provided on the application to obtain the retail cannabis business permit within thirty days of the change.
- (d) Conditions placed on the conditional use permit issued under the Zoning Code are also conditions of the retail cannabis business permit. Any violation of the conditions of the conditional use permit is grounds for suspending or revoking the retail cannabis business permit.

(e) The police chief may impose additional conditions on the retail cannabis business permit, including the maximum amount of cannabis and cannabis products allowed on the site, number and types of equipment allowed, and security features. (Ord. 2515 § 2, 2017)

21.04.080 Renewal.

- (a) A permittee may apply for retail cannabis business permit renewal by submitting to the police chief at least thirty calendar days before the expiration of the permit, a renewal application and a nonrefundable renewal fee in an amount set by resolution of the city council. Failure to timely submit a renewal application prior to expiration of the permit shall result in permit expiration, and an application for a new permit shall be required pursuant to Section [21.04.040](#).
- (b) If a timely and complete application for renewal is filed, the permit's expiration shall be stayed until a decision on the renewal application is issued.
- (c) The police chief shall either approve or deny the renewal of a permit within thirty calendar days of receipt of the complete application. The police chief may extend the time for consideration of the application for up to an additional twenty-one calendar days upon written notice to the applicant. The failure of the police chief to timely act shall constitute approval of the renewal of the permit.
- (d) The police chief shall approve the renewal of a permit if he or she finds that the circumstances existing during the term of the permit and during the review period of the application for renewal are consistent with all of the findings required for approval of a new permit specified in Section [21.04.040](#), and that no permittee or interested party of the cannabis business has committed, permitted, or failed to prevent violations of the municipal code, or any license or permit condition, during the preceding permit term.
- (e) Notwithstanding an approval for a permit renewal, the police chief may add, delete or modify the permit conditions using the criteria set forth in Section [21.04.070](#).
- (f) A permit renewed pursuant to this section may be extended for up to two additional years.
- (g) The renewal application shall be on a form approved by the police chief. The police chief, in consultation with the city manager and community development and sustainability director or his/her designee, is authorized to establish procedures and guidelines to process retail cannabis business permit renewal applications. (Ord. 2515 § 2, 2017)

21.04.090 Suspending, modifying, or revoking a permit.

- (a) The police chief may suspend, modify, or revoke a retail cannabis business permit issued pursuant to the provisions of this article for any of the following reasons:
- (1) One or more of the circumstances upon which a retail cannabis business permit could be denied, as described in Section [21.04.060](#), exists or has occurred;
 - (2) One or more conditions of the retail cannabis business permit has been violated; or
 - (3) The permittee, its managers or interested parties have violated any provision of this chapter.
- (b) The suspension, modification, or revocation of a retail cannabis business permit shall comply with Article 21.02. (Ord. 2515 § 2, 2017)

21.04.100 Emergency contact manager.

A retail cannabis business permittee shall provide the police chief with the current name and primary and secondary telephone numbers of at least one twenty-four hour on-call manager to address and resolve complaints and to respond to emergency operating problems or concerns associated with the retail cannabis business. (Ord. 2515 § 2, 2017)

21.04.110 Retail cannabis business site requirements.

A retail cannabis business shall comply with the following site requirements:

- (a) **Main entrance and lobby.** The business site shall have a building with a main entrance that is clearly visible from the public street, sidewalk, or public parking lot. Inside of the main entrance, there shall be a lobby or other receiving area satisfactory to the police chief to receive persons into the site and to verify whether they are allowed in the retail customer areas. All entrances into the buildings shall be secured at all times with entry controlled by the cannabis business permittee's managers and staff.
- (b) **Transport area.** If the business will conduct sales by delivery, each building shall have an area designed for the secure transfer of cannabis from the business to the delivery vehicle. Delivery drivers shall be accompanied by a security escort during the transfer of cannabis from the business to the delivery vehicle.
- (c) **Storage area.** Each building that will be used for storing cannabis or cannabis products shall have adequate storage space separated from the main entrance and lobby, and shall be secured by a lock accessible only to managers and staff of the retail cannabis business. (Ord. 2515 § 2, 2017)

21.04.120 Retail cannabis business security requirements.

A retail cannabis business shall comply with the following security requirements:

- (a) A retail cannabis business permittee shall comply with the security plan that is approved by police chief, which plan may include building specifications, lighting, alarms, and state-licensed security personnel.
- (b) Each security plan approved by the police chief must include the following:
 - (1) **Security Surveillance Cameras.** Security surveillance cameras and a video recording system must be installed to monitor all doors into the buildings on the business site, the parking lot, loading areas, and all exterior sides of the property adjacent to the public rights-of-way. The cameras and recording system must be of adequate quality, color rendition, and resolution to allow the identification of any individual present on the business site. The recording system must be capable of exporting the recorded video in standard MPEG formats to another common medium, such as a DVD or USB drive.
 - (2) **Security Video Recording and Retention.** Video from the security surveillance cameras must be recording at all times (twenty-four hours a day, seven days a week) and the recording shall be maintained for at least thirty days. The video recordings shall be made available to the city upon request.
 - (3) **Alarm System.** Professionally and centrally-monitored fire, robbery, and burglar alarm systems must be installed and maintained in good working condition. The alarm system must include a private security company that is required to respond to every alarm.
 - (4) A permittee shall report to the city police department all criminal activity occurring on the business site. (Ord. 2515 § 2, 2017)

21.04.130 Retail cannabis business operating requirements.

A retail cannabis business shall comply with the following operating requirements:

- (a) The maximum hours of operation shall be daily from nine a.m. to nine p.m., unless the police chief imposes more restrictive hours as a condition of the permit. A retail cannabis business conducting sales by deliveries shall not conduct any deliveries outside the applicable hours of operation of the business.
- (b) Retail customers shall only be permitted in designated retail customer areas of the cannabis business. Retail customer areas are those areas where limited quantities of cannabis and cannabis goods are sold and displayed for purchase. The retail cannabis business shall verify that persons entering the retail customer areas are authorized to purchase cannabis. Authorized retail customers mean the following:
 - (1) For a retail cannabis business authorized to sell medical cannabis, an “authorized retail customer” means a medical cannabis patient who is at least eighteen years old and possesses a physician’s recommendation in accordance with the Compassionate Use Act of 1996, [Health and Safety Code](#) Section 11362.5 et seq. Medical cannabis patients under the age of 18 shall be accompanied by a parent, legal guardian, or primary caregiver. Medical cannabis patients shall provide proof of a valid physician’s recommendation and valid proof of identification.
 - (2) For a retail cannabis business authorized to sell adult-use cannabis, an “authorized retail customer” means an individual that is at least twenty-one years of age. Every retail customer shall provide valid proof of identification demonstrating the age of the individual.
- (c) A retail cannabis business shall not allow or permit any person to smoke or ingest cannabis or cannabis products on the business site.
- (d) Other than retail customer areas, all other areas of the retail cannabis business shall be limited access areas restricted to managers, staff, and other persons with a bona fide business or regulatory purpose for being there, such as city officials, contractors, inspectors, and cannabis transporters.
- (e) The retail cannabis business shall prohibit loitering by persons outside the establishment, either on the premises or within fifty feet of the premises.
- (f) A manager must be on the cannabis business site at all times that any other person, except for security guards, is on the site. For purposes of this section, a “manager” shall mean and include the retail cannabis business permittee, owner, proprietor, manager, assistant manager, or other person exercising control over the operation of the cannabis business.
- (g) Employees of the retail cannabis business shall not smoke or consume cannabis or cannabis products on the business premises while working.
- (h) Cannabis consumption and possession may be prohibited under the laws, regulations and policies of local and state entities. In addition, both possession and consumption are forbidden by the federal government and could have negative impacts on immigration status and obtaining visas (or as modified by the city manager as appropriate due to changes in local, state or federal laws, regulations or policies).
- (i) A retail cannabis business shall comply with all signage, packaging, labeling, and advertising requirements imposed by state law. (Ord. 2515 § 2, 2017)

21.04.140 Cannabis delivery services originating in city.

If a retail cannabis business in the city conducts any retail sales by delivery, the retail cannabis business shall comply with the following additional requirements:

- (a) The delivery services shall be conducted by employees of the retail cannabis business who are at least twenty-one years old. The retail cannabis business shall not use the services of an independent contractor or courier service to deliver cannabis for retail sale.
- (b) Every employee of the retail cannabis business engaging in delivery services shall maintain on his or her person a physical copy of the following when conducting a delivery:
 - (1) The business's current valid retail cannabis business permit;
 - (2) Valid driver's license;
 - (3) Employer-provided badge containing the name and photo of the employee; and
 - (4) Each customer's delivery request. The delivery request must identify the retail cannabis business, the customer's name and address, and the product(s) being delivered.
- (c) Cannabis may only be delivered in-person to the customer that made the delivery request, and shall not be left unattended or delivered to any other person. The delivery-employee shall verify the customer's age, identity, delivery request, and, if applicable, valid physician's recommendation prior to completing the delivery.
- (d) Cannabis may not be delivered to an address located on publicly-owned land or any address on land or in a building leased by a public agency.
- (e) All deliveries shall be conducted in an enclosed motor vehicle or other acceptable delivery method in compliance with state law, operated by the delivery employee or another delivery employee of the retail cannabis business.
- (f) Cannabis and cannabis products shall not be left unattended in a vehicle, except for brief periods as necessary to deliver cannabis to a customer. If cannabis and cannabis products are left unattended in a vehicle, the vehicle must remain locked and must be equipped with an active vehicle alarm system.
- (g) For purposes of this section, a delivery begins when an employee leaves the retail cannabis business premises with cannabis intended for delivery, and ends when the delivery employee returns to the retail cannabis business premises. When conducting deliveries, the employee shall only travel from the business premises to a delivery address, from one delivery address to another delivery address, or from a delivery address back to the business premises.
- (h) The police chief is authorized to establish permitted and preferred delivery routes applicable to retail cannabis businesses.
- (i) These regulations are intended to be the minimum requirements imposed by law, and shall not be construed to conflict with state law. Where state law provides more restrictive requirements for cannabis deliveries, state law controls. (Ord. 2515 § 2, 2017)

21.04.150 Display of retail cannabis business permit.

The retail cannabis business permittee shall display its current valid retail cannabis business permit issued in accordance with this article inside the lobby or waiting area of the main entrance to the business. The permit shall be displayed at all times in a conspicuous place so that it may be readily seen by all persons entering the business site. (Ord. 2515 § 2, 2017)

21.04.160 Maintenance of records.

- (a) A retail cannabis business shall maintain the following records in printed format for at least three years on the business site and shall produce them to the city within twenty-four hours after receipt of the city's request:

- (1) The name, address, and telephone numbers of the owner and landlord of the property.
 - (2) The name, date of birth, address, and telephone number of each manager and staff of the cannabis business; the date each was hired; and the nature of each manager's and staff's participation in the cannabis business.
 - (3) A written accounting of all income and expenditures of the cannabis business, including, but not limited to, cash and in-kind transactions.
 - (4) A copy of the cannabis business's commercial general liability insurance policy and all other insurance policies related to the operation of the business.
 - (5) A copy of the cannabis business's most recent year's financial statement and tax return.
 - (6) An inventory record documenting the dates and amounts of cannabis and cannabis products received at the business site, the daily amounts of cannabis and cannabis products stored on the site, and the daily amounts of cannabis and cannabis products sold from the site.
- (b) A retail cannabis business shall report any loss, damage, or destruction of these records to the city manager within twenty-four hours of the loss, damage, or destruction. (Ord. 2515 § 2, 2017)

21.04.170 Site management.

- (a) The retail cannabis business permittee shall prevent and eliminate conditions on the cannabis business site that constitute a nuisance.
- (b) The permittee shall properly store and dispose of all waste generated on the cannabis business site, including organic waste, in accordance with all applicable laws and regulations. (Ord. 2515 § 2, 2017)

View the [mobile version](#).

ORDINANCE NO. 2509

AN ORDINANCE ADDING CHAPTER 21 TO THE DAVIS MUNICIPAL CODE TO ESTABLISH PERMITTING AND REGULATORY REQUIREMENTS FOR OPERATION OF COMMERCIAL CANNABIS BUSINESSES

WHEREAS, the City Council of the City of Davis adopted Urgency Ordinance No. 2488 to establish an interim moratorium in all zoning districts on the establishment, creation or expansion of any and all marijuana uses and all marijuana cultivation; and

WHEREAS, the City Council, by Ordinance No. 2492 extended the moratorium until July 4, 2017 so as to allow City staff to conduct public outreach and develop recommendations regarding commercial marijuana businesses and appropriate regulations; and

WHEREAS, the City Council, by Ordinance No. 2497, amended the City's Zoning Code regarding indoor personal cultivation of marijuana in light of the Adult Use of Marijuana Act, approved and enacted by the voters at the November 8, 2016 General Election, and to authorize certain limited outdoor personal cultivation of marijuana, and to begin using the word "cannabis" in place of "marijuana" in the Municipal Code; and

WHEREAS, the City Council, by Ordinance No. 2503, amended the City's Zoning Code to authorize certain commercial cannabis manufacturing, testing, research and distribution businesses in the City, subject to reasonable zoning regulations that are consistent with existing zoning practices in the City, so that cannabis manufacturing, testing, research and distribution activities occur in zones which already allow for such uses consistent with existing performance standards and levels of planning review; and

WHEREAS, this Ordinance establishes the general permitting process required for operation of commercial cannabis businesses in the City authorized by the City's Zoning Code, imposes reasonable regulations and permit conditions on such businesses to ensure safe operation in the City, and authorizes the City Council to establish reasonable fees for the administration and enforcement of the commercial cannabis business permit program; and

WHEREAS, this Ordinance further establishes the specific permit application requirements, permit conditions, and other regulatory requirements for operation of commercial cannabis manufacturing, testing, research and distribution businesses in the City (hereafter, "non-retail cannabis businesses"); and

WHEREAS, the City Council finds that the cannabis business permitting requirements and process established by this Ordinance protect the public health, safety and welfare and mitigate potential adverse impacts through restrictions on public access to non-retail cannabis businesses and development of adequate security measures and business plans that account for community relations and neighborhood responsibility; and

WHEREAS, this Ordinance merely establishes regulatory requirements and permitting of certain commercial cannabis uses authorized and regulated in the City's Zoning Code, including non-retail cannabis businesses, and does not independently authorize the establishment or operation of any new or particular cannabis business or use; and

WHEREAS, this Ordinance is therefore not a project subject to California Environmental Quality Act (CEQA) review pursuant to Section 15061(b)(3) of Title 14 of the California Code of Regulations, as this Ordinance does not have the potential for causing a significant effect on the environment.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF DAVIS DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Recitals. The above recitals are hereby incorporated as though set forth in this section.

SECTION 2. Amendment. Chapter 21, titled "Marijuana/Cannabis Business Permits", containing Article 21.01 General Provisions, Article 21.02 Notice and Appeal Process for Cannabis Business Permits, and Article 21.03 Cannabis Manufacturing, Laboratories, Research & Distribution Businesses, is hereby added to the Davis Municipal Code to read in full as set forth in Exhibit A, attached hereto and incorporated herein by this reference.

SECTION 3. Severability. If any provision, clause, sentence or paragraph of this chapter or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the other provisions of this chapter, which can be given effect without the invalid provision or application, and to this end, the provisions of this chapter are declared to be severable.

SECTION 4. CEQA. The City Council hereby finds this Ordinance merely establishes a permitting process and reasonable regulations on commercial cannabis businesses, to the extent such businesses are authorized to operate in the City pursuant to state and local law, and does not independently authorize any particular cannabis business or use to establish or operate in the City. Accordingly, it can be seen with certainty that there is no possibility this Ordinance will have a significant effect on the environment. This Ordinance is therefore not a project subject to California Environmental Quality Act (CEQA) review pursuant to Section 15061(b)(3) of Title 14 of the California Code of Regulations.

SECTION 5. Effective Date. This Ordinance shall take effect thirty (30) days after its adoption and, within fifteen (15) days after its passage, shall be published at least once in a newspaper of general circulation published and circulated within the City.

INTRODUCED on the 20th day of June, 2017, and PASSED AND ADOPTED by the City Council of the City of Davis on this 11th day of July, 2017, by the following vote:

AYES: Arnold, Frerichs, Lee, Swanson, Davis

NOES: None



Robb Davis
Mayor

ATTEST:



Zoe Mirabile, CMC
City Clerk

EXHIBIT A

**CHAPTER 21
MARIJUANA/ CANNABIS BUSINESS PERMITS**

Article 21.01 General Provisions

- Section 21.01.010 Purpose and intent.
- Section 21.01.020 Definitions.
- Section 21.01.030 All state and local licenses required.
- Section 21.01.040 Payment of taxes.
- Section 21.01.050 Cannabis transfer between permitted businesses only.
- Section 21.01.060 Permits not transferable.
- Section 21.01.070 Service of notices.
- Section 21.01.080 Inspection authority.
- Section 21.01.090 Violations.
- Section 21.01.100 Severability.

Article 21.02 Notice and Appeal Process for Cannabis Business Permits

- Section 21.02.010 Appeals.
- Section 21.02.020 Hearings – Generally.
- Section 21.02.030 Conduct of hearing.
- Section 21.02.040 Form, contents, finality of decision.

**Article 21.03 Cannabis Manufacturing, Laboratories, Research & Distribution
Businesses**

- Section 21.03.010 Definitions and scope.
- Section 21.03.020 Non-retail cannabis business permit required.
- Section 21.03.030 Non-retail cannabis business permit program fee.
- Section 21.03.040 Applications for non-retail cannabis business permit.
- Section 21.03.050 Application process.
- Section 21.03.060 Denial of a non-retail cannabis business permit.
- Section 21.03.070 Terms of non-retail cannabis business permit.
- Section 21.03.080 Renewal.
- Section 21.03.090 Suspending, modifying, or revoking a permit.
- Section 21.03.100 Emergency contact manager.
- Section 21.03.110 Non-retail cannabis business site buildings.
- Section 21.03.120 Non-retail cannabis business site security.
- Section 21.03.130 Display of non-retail cannabis business permit.
- Section 21.03.140 Signs.
- Section 21.03.150 Site restricted.
- Section 21.03.160 Juveniles prohibited.
- Section 21.03.170 Retail sales prohibited.
- Section 21.03.180 Cannabis consumption prohibited.
- Section 21.03.190 Alcohol prohibited.
- Section 21.03.200 Maintenance of records.
- Section 21.03.210 Site management.

ARTICLE 21.01 GENERAL PROVISIONS

21.01.010 Purpose and intent.

It is the purpose and intent of the city council to regulate cannabis businesses consistent with state law and to protect the health, safety, and welfare of the residents of the city. The regulations in this chapter do not interfere with a qualified patient's right to obtain and use cannabis as authorized under state law, nor do they criminalize the possession or cultivation of cannabis by certain individuals as authorized under state law. Cannabis businesses shall comply with all provisions of the Davis Municipal Code, state law, and all other applicable local codes and regulations, including all applicable land use and zoning regulations imposed on cannabis businesses. It is neither the intent of this chapter to condone or legitimize the illegal use or consumption of cannabis under federal, state, or local law, nor to authorize the operation of a legal business in an illegal manner.

21.01.020 Definitions.

As used in this chapter, the following words and phrases shall have the following meanings, unless otherwise specified:

"Cannabis" means all parts of the plant *Cannabis sativa* L., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin, including cannabis products derived therefrom. For purposes of this chapter, "cannabis" shall mean and include both cannabis for medical purposes and non-medical cannabis, unless otherwise specified. Cannabis shall not include industrial hemp.

"Cannabis business" means a business activity including, but not limited to, planting, cultivation, harvesting, transporting, manufacturing, compounding, converting, processing, preparing, storing, packaging, distributing, researching, testing, providing, or selling wholesale and/or retail sales of cannabis. A cannabis business includes any facility, building, structure or location, expressly including dispensaries and deliveries, and shall expressly include those commercial cannabis activities authorized and/or licensed by State law.

"Cannabis business permit" means any license issued to a cannabis business pursuant to the provisions of this chapter.

"City manager" means the city manager and his or her designee.

"Conditional use permit" means any conditional use permit, including administrative use permits, issued by the city pursuant to the Zoning Code related to the operation of a commercial cannabis business.

"Drug paraphernalia" shall have the same definition as set forth in California Health and Safety Code section 11364.5.

"Interested parties" means any of the following:

- (1) Any individual that has an aggregate ownership interest, other than a security interest, lien, or encumbrance, of twenty percent (20%) or more in the commercial cannabis business;
- (2) Partners, officers, directors, and stockholders of every corporation, limited liability company, or general or limited partnership that owns at least twenty percent (20%) of the cannabis business or that is one of the partners in the cannabis business;
- (3) The manager(s) of the cannabis business; and
- (4) The staff of the cannabis business.

"Juvenile" means any natural person who is under the age of 18 years.

"Manager" means a person with responsibility for the establishment, registration, supervision, or oversight of the operation of a cannabis business, including but not limited to, a person who performs

the functions of a board member, director, officer, owner, operating officer, or manager of the cannabis business.

“Medical cannabis” means cannabis used for medical purposes in accordance with the Compassionate Use Act (California Health and Safety Code section 11362.5 et seq.) and the Medical Cannabis Program Act (California Health and Safety Code sections 11362.7 et seq.), as they may be amended from time to time.

“Physician” means a licensed medical doctor as defined in California Business and Professions Code section 4039.

“Police chief” shall mean the City of Davis Chief of Police and his or her designee.

“Primary caregiver” shall have the same definition as set forth in California Health and Safety Code section 11362.7, as may be amended.

“Private medical records” means records related to the medical history of a qualified patient and includes the recommendation of a physician for the medical use of medical cannabis and the designation of a primary caregiver by a qualified patient.

“Qualified patient” shall have the same definition as set forth in California Health and Safety Code section 11362.7, as may be amended.

“Staff” means a person other than a manager who works or provides services on the site of a cannabis business, whether as an employee, contractor, or volunteer.

21.01.030 All state and local licenses required.

- (a) No cannabis business shall operate unless it is in possession of all applicable state and local licenses or permits. A cannabis business subject to state licensing under the Medical Cannabis Regulation and Safety Act, California Business and Professions Code section 19300 et seq., that is operating in compliance with this chapter and other state and local requirements on or before January 1, 2018, may continue its operations after January 1, 2018 provided that it timely applies for and its application for licensure is approved by the state, subject to the requirements of California Business and Professions Code section 19321(b), as may be amended. If a cannabis business operating in the city on or before January 1, 2018 fails to timely apply for a license by the deadline established by the applicable state licensing authority, or its application for licensure is denied, the cannabis business shall cease all operations of the cannabis business until a valid state license is obtained, in addition to any other state and local requirements that may apply.
- (b) Every cannabis business shall submit to the police chief a copy of any and all of its state and local licenses and permits required for its operation.
- (c) If any other applicable state or local license or permit required for a cannabis business’s operation is denied, suspended, modified, revoked, or expired, the cannabis business shall notify the police chief in writing within 10 days.

21.01.040 Payment of taxes.

In addition to any fees established and imposed pursuant to this chapter, all cannabis businesses are required to pay all applicable taxes, including the marijuana business license tax imposed by section 19.04.100 of the Davis Municipal Code, as applicable.

21.01.050 Cannabis transfer between permitted businesses only.

A cannabis business shall not transfer cannabis or cannabis products to or from another cannabis business, unless both businesses are in possession of all required state and local licenses and permits.

21.01.060 Permits not transferable.

Cannabis business permits issued pursuant to this chapter are not property and have no value. Cannabis business permits may not be transferred, sold, assigned or bequeathed expressly or by

operation by law. Any attempt to directly or indirectly transfer a cannabis business permit shall be unlawful and void, and shall automatically revoke the permit.

21.01.070 Service of notices.

All notices required by this chapter shall be deemed issued and served upon the date they are either deposited in the United States mail, postage pre-paid, addressed to the applicant or cannabis business at the mailing address identified in its application, the last updated address on file with the police chief, or the mailing address on the appeal form; or the date upon which personal service of the notice is provided to the applicant or a manager identified on the application or appeal form.

21.01.080 Inspection authority.

- a) The police chief may enter and inspect the site of a cannabis business at any reasonable time to ensure compliance and enforcement of the provisions of this chapter.
- b) The police chief and city manager may inspect and demand copies of records maintained by the cannabis business, except for private medical records, which shall be made available to law enforcement agencies only pursuant to a properly executed search warrant, subpoena, or court order.
- c) No person shall refuse, impede, obstruct, or interfere with a lawful inspection performed pursuant to this chapter.

21.01.090 Violations.

- a) Any person who violates the provisions of this chapter shall be subject to a fine of up to \$1,000 for each day the violation continues.
- b) In addition to any other remedy allowed by law, any person who violates a provision of this chapter is subject to criminal sanctions, civil actions, and administrative penalties pursuant to article 1.02 of this code.
- c) Violations of this chapter are hereby declared to be public nuisances.
- d) All remedies prescribed under this chapter shall be cumulative and the election of one or more remedies shall not bar the city from the pursuit of any other available remedy for the purpose of enforcing the provisions hereof.

21.01.100 Severability.

If any section, subsection, subdivision, paragraph, sentence, clause, or phrase in this chapter is for any reason held to be unconstitutional, invalid, or ineffective by any court of competent jurisdiction, that decision shall not affect the validity or effectiveness of the remaining portions of this chapter. The city council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof irrespective of the fact that any one or more subsections, subdivisions, paragraphs, sentences, clauses, or phrases be declared unconstitutional, invalid, or ineffective.

ARTICLE 21.02
NOTICE AND APPEAL PROCESS FOR CANNABIS BUSINESS PERMITS

21.02.010 Appeals.

- a) Any applicant or permittee aggrieved by a decision of the police chief in denying, suspending, modifying or revoking a permit, or imposing conditions on the issuance of a permit or permit renewal, may appeal the decision to the city manager in accordance with the procedures set forth in this article.
- b) Any applicant or permittee who desires to appeal a decision of the police chief, may appeal the decision by submitting a written appeal to the city manager within ten calendar days from the date of service of the notice of denial, suspension, modification, revocation, or conditioned approval or renewal. The written appeal shall contain:
 - 1) A brief statement in ordinary and concise language of the specific decision or condition protested, together with any material facts claimed to support the contentions of the appellant;
 - 2) A brief statement in ordinary and concise language of the relief sought, and the reasons why it is claimed the protested action should be reversed or otherwise set aside;
 - 3) The signatures of all parties named as appellants and their official mailing addresses; and
 - 4) The verification (by declaration under penalty of perjury) of at least one appellant as to the truth of the matters stated in the appeal.
- c) Upon receipt of a timely filed appeal, the city manager may hire or appoint a hearing officer or may serve as the hearing officer.
- d) Upon receipt of any appeal filed pursuant to this section, the hearing officer shall calendar it for hearing within fifteen calendar days.
- e) Written notice of the time and place of the hearing shall be given at least seven calendar days prior to the date of the hearing to each named appellant either by causing a copy of such notice to be delivered to the appellant personally or by mailing a copy thereof, postage prepaid, addressed to the appellant at the address(es) shown on the appeal.
- f) Failure of any person to timely file an appeal in accordance with the provisions of this section shall constitute an irrevocable waiver of the right to an administrative hearing and a final adjudication of the notice and decision, or any portion thereof.
- g) Only those matters or issues specifically raised by the appellant in the appeal notice shall be considered in the hearing of the appeal.
- h) In the case of a suspension, modification, or revocation of a permit or permit renewal, the permittee may continue to conduct the cannabis business during the pendency of any appeal.

21.02.020 Hearings - Generally.

- a) At the time set for hearing, the hearing officer shall proceed to hear the testimony of the police chief, the appellant, and other competent persons, including members of the public, respecting those matters or issues specifically raised by the appellant in the notice of appeal.
- b) The proceedings at the hearing shall be electronically recorded. Either party may provide a certified shorthand reporter to maintain a record of the proceedings at the party's own expense.
- c) The hearing officer may, upon request of the appellant or upon request of the city, grant continuances from time to time for good cause shown, or upon his or her own motion.

- d) In any proceedings under this chapter, the hearing officer has the power to administer oaths and affirmations and to certify to official acts.

21.02.030 Conduct of hearing.

- a) Hearings need not be conducted according to the technical rules relating to evidence and witnesses.
- b) Oral evidence shall be taken only upon oath or affirmation.
- c) Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of the evidence over objection in civil actions.
- d) The hearing officer has discretion to exclude evidence if its probative value is substantially outweighed by the probability that its admission will necessitate undue consumption of time.
- e) Hearsay evidence may be used for the purpose of supplementing or explaining other evidence but over timely objection shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. An objection is timely if made before submission of the case or on reconsideration.
- f) Each party shall have these rights, among others:
 - 1) To call and examine witnesses on any matter relevant to the issues of the hearing;
 - 2) To introduce documentary and physical evidence;
 - 3) To cross-examine opposing witnesses on any matter relevant to the issues of the hearing;
 - 4) To impeach any witness regardless of which party first called the witness to testify;
 - 5) To rebut the evidence presented against the party; and
 - 6) To represent him, her, or itself or to be represented by anyone of his, her, or its choice who is lawfully permitted to do so.
- g) In reaching a decision, official notice may be taken, either before or after submission of the case for decision, of any fact that may be judicially noticed by the courts of this state or that may appear in any of the official records of the city or any of its departments.

21.02.040 Form, contents, finality of decision.

- a) If it is shown, by a preponderance of the evidence, that one or more bases exist to deny, suspend, modify, or revoke the permit, the hearing officer shall affirm the police chief's decision to deny, suspend, modify, revoke or condition the permit.
- b) Following the hearing and after reviewing the testimony and evidence presented at the hearing, the city manager shall issue a decision, or if the city manager appointed a hearing officer, the hearing officer shall issue a recommendation to the city manager, regarding the propriety of the police chief's determination. The decision or recommendation shall be in writing and shall contain findings of fact and a determination of the issues presented. The city manager shall accept, amend and accept, or reject a hearing officer's recommendation.
- c) The city manager's determination of the appeal shall be final.
- d) The final decision shall inform the appellant that the decision is a final decision and that the time for judicial review is governed by California Code of Civil Procedure Section 1094.6. Copies of the decision shall be delivered to the appellant personally or sent by certified mail to the address shown on the appeal within ten business days following the conclusion of the hearing.
- e) The decision shall be final when signed by the city manager and served as provided in this section.

ARTICLE 21.03.
CANNABIS MANUFACTURING, LABORATORIES, RESEARCH &
DISTRIBUTION BUSINESSES

21.03.010 Definitions and scope.

- (a) This article applies to cannabis manufacturing businesses, cannabis laboratories and research, and cannabis distribution facilities, as those businesses are defined and regulated by Article 40.26B of the Zoning Code.
- (b) For purposes of this article, any cannabis manufacturing business, cannabis laboratory and research facility, or cannabis distribution facility, as defined and regulated by Article 40.26B of the Zoning Code, shall be referred to as a “non-retail cannabis business.”

21.03.020 Non-retail cannabis business permit required.

No person shall operate a non-retail cannabis business without obtaining a valid non-retail cannabis business permit issued pursuant to this article.

21.03.030 Non-retail cannabis business permit program fee.

The non-retail cannabis manufacturing permit program fee is hereby established and imposed. The city council shall establish by resolution the amount of the non-retail cannabis permit program fee, and any related penalties.

21.03.040 Applications for non-retail cannabis business permit.

- (a) A person may apply for a non-retail cannabis business permit, or a permit renewal, by filing an application with the police chief. The application shall be on a form approved by the police chief and may require any information or documentation consistent with the provisions of this code and state law, including the following:
 - (1) Applicant.
 - (A) A description of the statutory entity or business form that will serve as the legal structure for the applicant and a copy of its formation and organizing documents, including, but not limited to, articles of incorporation, certificate of amendment, statement of information, articles of association, bylaws, partnership agreement, operating agreement, and fictitious business name statement.
 - (B) The phone number and address to which notice of action on the application and correspondence is to be mailed.
 - (2) Interested parties.
 - (A) The name, address, telephone number, title, and function of each of the interested parties in the cannabis business.
 - (B) For each of the interested parties identified pursuant to subsection (2)(A):
 - i. A legible copy of one valid government-issued form of photo identification, such as a state driver’s license, a passport issued by the United States, or a permanent resident card.
 - ii. A list of his or her misdemeanor and felony convictions, if any. For each conviction, the list must set forth the date of arrest, the offense charged, the offense convicted, the jurisdiction of the court, and whether the conviction was by verdict, plea of guilty, or plea of nolo contendere.
 - iii. Consent to fingerprinting and a criminal background investigation.
 - (3) Non-retail cannabis business site.

- (A) Description. A general description of the proposed non-retail cannabis business site, including the street address, parcel number, total square footage of the site, and the characteristics of the surrounding area.
 - (B) Floor plan. A scaled floor plan for each level of each building that makes up the business site, including the entrances, exits, walls, and manufacturing, laboratory and research, or distribution areas, as applicable. The floor plan must be professionally prepared by a licensed civil engineer or architect.
 - (C) Site plan. A scaled site plan of the business site, including all buildings, structures, driveways, parking lots, landscape areas, and boundaries. The site plan must be professionally prepared by a licensed civil engineer or architect.
 - (D) Compliance with the Zoning Code. A copy of a valid conditional use permit approved by the city for the proposed location, as may be applicable.
 - (E) Statement of owner's consent. Written consent of the owner or landlord of the proposed site to operate a cannabis business, specifying the street address and parcel number.
- (4) Security.
- (A) Security plan. A detailed security plan outlining the measures that will be taken to ensure the safety of persons and property on the business site. The security plan must be prepared by a qualified professional.
 - (B) Lighting plan. A lighting plan showing existing and proposed exterior and interior lights that will provide adequate security lighting for the use.
- (5) Odor control. A detailed ventilation plan describing the air treatment system, or other methods that will be implemented to prevent offensive odors generated from the manufacturing, testing and/or storage of cannabis from being detected outside the buildings on the manufacturing site.
- (6) Business operations.
- (A) Business plan. A plan describing how the non-retail cannabis business will operate in accordance with this code, state law, and other applicable regulations. The business plan must include plans for hours of operation, handling cash and transporting cannabis and cannabis products to and from the business site, as may be applicable.
 - (B) Community relations plan. A plan describing who is designated as being responsible for outreach and communication with the surrounding community, including the neighborhood and businesses, and how the designee can be contacted. The community relations plan must include a description of the community benefit the business will provide, or proposes to provide, to the surrounding community.
 - (C) Neighborhood responsibility plan. The neighborhood responsibility plan must address any potential effects of the non-retail cannabis business on the surrounding neighborhood area.
 - (D) State licenses. Copies of the applicant's state licenses relating to cannabis, as required by state law. If the applicant applies for a non-retail cannabis business permit prior to the state issuing the appropriate licenses, the applicant shall specify which state license(s) will be obtained once the state begins issuing licenses.
 - (E) Tax compliance. A current copy of the applicant's city business license tax certificate, state sales tax seller's permit, and the applicant's most recent year's financial statement and tax returns, as may be applicable.

- (F) Insurance. The applicant's certificate of commercial general liability insurance and endorsements and certificates of all other insurance related to the operation of the cannabis manufacturing business.
- (G) Budget. A copy of the applicant's most recent annual budget for operations.
- (H) Price list. A list of the most recent prices for all products and services provided by the applicant.
- (7) City authorization. Authorization and consent for the police chief to seek verification of the information contained within the application.
- (8) Applicant's certification. A statement dated and signed by the applicant, under penalty of perjury, that the applicant has personal knowledge of the information contained in the application, that the information contained therein is true and correct, and that the application has been completed under the applicant's supervision.
- (9) Indemnification. An agreement, in a form approved by the city attorney, whereby the applicant:
 - (A) Releases the city, and its agents, officers, elected officials, and employees from any and all claims, injuries, damages, or liabilities of any kind arising from: (i) any repeal or amendment of this chapter or any provision of the Zoning Code relating to the non-retail cannabis business, and (ii) any arrest or prosecution of the applicant or its managers, employees, or members for violation of state or federal laws; and
 - (B) Defends, indemnifies, and holds harmless the city and its agents, officers, elected officials, and employees from and against any and all claims or actions: (i) brought by adjacent or nearby property owners or any other parties for any damages, injuries, or other liabilities of any kind arising from operations at the manufacturing site, and (ii) brought by any party for any problems, injuries, damages, or other liabilities of any kind arising out of the distribution of cannabis or cannabis products at the business site.
- (b) Every application for a non-retail cannabis business permit shall be accompanied by a nonrefundable non-retail cannabis business permit program fee.
- (c) No person shall knowingly make a false statement of fact or knowingly omit any information that is required in an application for a cannabis manufacturing permit.

21.03.050 Application process.

The police chief is authorized to establish procedures and guidelines to process non-retail cannabis business permit applications.

21.03.060 Denial of a non-retail cannabis business permit.

- (a) The police chief may deny a non-retail cannabis business permit if the police chief determines that one or more of the following circumstances exist:
 - (1) The application received is incomplete, filed late, or not responsive to the requirements of this article;
 - (2) The application contains a false or misleading statement or omission of a material fact;
 - (3) The operation of the business site described in the application fails to comply with any of the requirements in this code, state law, or any other regulation;
 - (4) The applicant or any of its managers has any unpaid and overdue administrative penalties imposed for violations of this chapter;
 - (5) Within 12 months of the date of application, either the applicant has had a state or local cannabis-related land use or business permit revoked; or any of its managers

were associated with a cannabis business that had its cannabis-related permit(s) revoked; or

- (6) Operation of the proposed non-retail cannabis business site, as represented in the application, is a threat to the public health, safety, or welfare.
- (b) The denial of a non-retail cannabis business permit is subject to and shall comply with article 21.02.

21.03.070 Terms of non-retail cannabis business permit.

- (a) A non-retail cannabis business permit issued pursuant to this article is valid for one year from the date that the permit is issued, unless suspended or revoked sooner.
- (b) A non-retail cannabis business permit is valid for only one non-retail cannabis business site.
- (c) A non-retail cannabis business permittee shall not allow cannabis or cannabis products on the business site to be visible from the public right of way, the unsecured areas surrounding the building(s) on the site, or the site's main entrance and lobby.
- (d) The permittee shall notify the police chief of any change in the information provided on the application to obtain the non-retail cannabis business permit within 30 days of the change.
- (e) Conditions placed on the conditional use permit issued under the Zoning Code are also conditions of the non-retail cannabis business permit. Any violation of the conditions of the conditional use permit is grounds for suspending or revoking the non-retail cannabis business permit.
- (f) The police chief may impose additional conditions on the non-retail cannabis business permit, including the maximum amount of cannabis and cannabis products allowed on the site, number and types of equipment allowed, and security features.

21.03.080 Renewal.

- (a) A permittee may apply for non-retail cannabis business permit renewal by submitting to the police chief at least thirty calendar days before the expiration of the permit, a renewal application and a non-refundable renewal fee in an amount set by resolution of the city council. Failure to timely submit a renewal application prior to expiration of the permit shall result in permit expiration, and an application for a new permit shall be required pursuant to section 21.03.040.
- (b) If a timely and complete application for renewal is filed, the permit's expiration shall be stayed until a decision on the renewal application is issued.
- (c) The police chief shall either approve or deny the renewal of a permit within thirty calendar days of receipt of the complete application. The police chief may extend the time for consideration of the application for up to an additional twenty-one calendar days upon written notice to the applicant. The failure of the police chief to timely act shall constitute approval of the renewal of the permit.
- (d) The police chief shall approve the renewal of a permit if he or she finds that the circumstances existing during the term of the permit and during the review period of the application for renewal are consistent with all of the findings required for approval of a new permit specified in section 21.03.040, and that no permittee or interested party of the cannabis business has committed, permitted, or failed to prevent violations of the municipal code, or any license or permit condition, during the preceding permit term.
- (e) Notwithstanding an approval for a permit renewal, the police chief may add, delete or modify the permit conditions using the criteria set forth in section 21.03.070.
- (f) A permit renewed pursuant to this section may be extended for up to two additional years.
- (g) The renewal application shall be on a form approved by the police chief. The police chief is authorized to establish procedures and guidelines to process non-retail cannabis business permit renewal applications.

21.03.090 Suspending, modifying, or revoking a permit.

- (a) The police chief may suspend, modify, or revoke a non-retail cannabis business permit issued pursuant to the provisions of this article for any of the following reasons:
 - (1) One or more of the circumstances upon which a non-retail cannabis business permit could be denied, as described in section 21.03.060, exists or has occurred;
 - (2) One or more conditions of the non-retail cannabis business permit has been violated; or
 - (3) The permittee, its managers or interested parties have violated any provision of this chapter.
- (b) The suspension, modification, or revocation of a non-retail cannabis business permit shall comply with article 21.02.

21.03.100 Emergency contact manager.

A non-retail cannabis business permittee shall provide the police chief with the current name and primary and secondary telephone numbers of at least one 24-hour on-call manager to address and resolve complaints and to respond to emergency operating problems or concerns associated with the non-retail cannabis business.

21.03.110 Non-retail cannabis business site buildings.

A non-retail cannabis business site shall comply with the following requirements:

- (a) Entrances. All entrances into the buildings on the business site shall be locked at all times with entry controlled by the cannabis business permittee's managers and staff.
- (b) Main entrance and lobby. The business site shall have a building with a main entrance that is clearly visible from the public street or sidewalk. Inside of the main entrance, there shall be a lobby to receive persons into the site and to verify whether they are allowed in the manufacturing, testing, and/or distribution areas.
- (c) All manufacturing areas in any building on the business site shall be separated from the main entrance and lobby, and shall be secured by a lock accessible only to managers and staff of the cannabis business permittee.
- (d) Transport area. Each building with a manufacturing area shall have an area designed for the secure transfer of cannabis from a vehicle to the manufacturing area.
- (e) Storage area. Each building that will be used for storing cannabis or cannabis products shall have adequate storage space separated from the main entrance and lobby, and shall be secured by a lock accessible only to managers and staff of the cannabis manufacturing permittee.

21.03.120 Non-retail cannabis business site security.

A non-retail cannabis business site shall comply with the following security requirements:

- (a) A non-retail cannabis business permittee shall comply with the security plan that is approved by police chief, which plan may include building specifications, lighting, alarms, and state-licensed security personnel.
- (b) Each security plan approved by the police chief must include the following:
 - (1) Security surveillance cameras. Security surveillance cameras and a video recording system must be installed to monitor all doors into the buildings on the manufacturing site, the parking lot, loading areas, and all exterior sides of the property adjacent to the public rights of way. The cameras and recording system must be of adequate quality, color rendition, and resolution to allow the identification of any individual present on the manufacturing site. The recording system must be capable of exporting

the recorded video in standard MPEG formats to another common medium, such as a DVD or USB drive.

- (2) Security video recording and retention. Video from the security surveillance cameras must be recording at all times (24 hours a day, seven days a week) and the recording shall be maintained for at least 30 days. The video recordings shall be made available to the city upon request.
- (3) Alarm system. Professionally and centrally-monitored fire, robbery, and burglar alarm systems must be installed and maintained in good working condition. The alarm system must include a private security company that is required to respond to every alarm.
- (4) A permittee shall report to the city police department all criminal activity occurring on the business site.

21.03.130 Display of non-retail cannabis business permit.

The non-retail cannabis business permittee shall display its current valid non-retail cannabis business permit issued in accordance with this article inside the lobby or waiting area of the main entrance to the business. The permit shall be displayed at all times in a conspicuous place so that it may be readily seen by all persons entering the business site.

21.03.140 Signs.

- (a) A non-retail cannabis business permittee shall post in the lobby of the business site signs that state the following:
 - (1) "This site is not open to the public."
 - (2) "Retail sales of any goods and services is prohibited."
 - (3) "Juveniles are prohibited from entering this site."
 - (4) "Smoking, ingesting, or consuming cannabis on this site is prohibited."
- (b) Each sign described in subsection (a) must be at least 8 inches by 10 inches in size and must be displayed at all times in a conspicuous place so that it may be readily seen by all persons entering the business site.

21.03.150 Site restricted.

- (a) No non-retail cannabis business permittee shall open his or her cannabis business site to the public.
- (b) No non-retail cannabis business permittee shall allow anyone on the cannabis business site, except for managers, staff, and other persons with a bona fide business or regulatory purpose for being there, such as city officials, contractors, inspectors, and cannabis transporters.
- (c) A manager must be on the cannabis business site at all times that any other person, except for security guards, is on the site.
- (d) Any person other than managers or staff who are on the cannabis business site must sign in, wear a visitor badge, and be escorted on the site by a manager at all times.

21.03.160 Juveniles prohibited.

- (a) No juvenile shall be on the cannabis business site or operate a non-retail cannabis business in any capacity, including, but not limited to, as a manager, staff, employee, contractor, or volunteer.
- (b) No permittee shall allow any violation of subsection (a).

21.03.170 Retail sales prohibited.

No person shall conduct or permit to be conducted any retail sales of any good or services on or from a permitted non-retail cannabis business site.

21.03.180 Cannabis consumption prohibited.

No person, including managers, employees and visitors, shall smoke, ingest, or otherwise consume cannabis in any form on or within the non-retail cannabis business site.

21.03.190 Alcohol prohibited.

No person shall possess, consume, or store any alcoholic beverage on the cannabis business site.

21.03.200 Maintenance of records.

- (a) A non-retail cannabis business shall maintain the following records in printed format for at least three years on the business site and shall produce them to the city within 24 hours after receipt of the city's request:
 - (1) The name, address, and telephone numbers of the owner and landlord of the property.
 - (2) The name, date of birth, address, and telephone number of each manager and staff of the cannabis business; the date each was hired; and the nature of each manager's and staff's participation in the cannabis business.
 - (3) A written accounting of all income and expenditures of the cannabis business, including, but not limited to, cash and in-kind transactions.
 - (4) A copy of the cannabis business's commercial general liability insurance policy and all other insurance policies related to the operation of the business.
 - (5) A copy of the cannabis business's most recent year's financial statement and tax return.
 - (6) An inventory record documenting the dates and amounts of cannabis and cannabis products received at the business site, the daily amounts of cannabis and cannabis products stored on the site, and the daily amounts of cannabis and cannabis products transported from the site.
- (b) A non-retail cannabis business shall report any loss, damage, or destruction of these records to the city manager within 24 hours of the loss, damage, or destruction.

21.03.210 Site management.

- (a) The non-retail cannabis business permittee shall prevent and eliminate conditions on the cannabis business site that constitute a nuisance.
- (b) The permittee shall properly store and dispose of all waste generated on the cannabis business site, including chemical and organic waste, in accordance with all applicable laws and regulations.

Chapter 5.96 - COMMERCIAL CANNABIS ACTIVITY REGULATORY PERMIT^[2]**Sections:**

5.96.010 - Purpose and intent.

It is the purpose and intent of this chapter to regulate the cultivation, manufacturing, testing, distribution, and transportation of medicinal and nonmedicinal adult use cannabis (including cannabis products and edible cannabis products) within the city.

The regulations and prohibitions in this chapter are enacted to ensure the health, safety, and welfare of the residents of the city. The regulations and prohibitions herein, which are in compliance with the Compassionate Use Act of 1996 ("CUA"), the Medical Marijuana Program ("MMP"), the Medical Cannabis Regulation and Safety Act ("MCRSA"), the Control, Use, Tax Adult Use of Marijuana Act ("AUMA"), (collectively, "State law"), do not interfere with the use and possession of cannabis as authorized under State law.

Nothing in this chapter shall be construed to:

- A. Allow persons to engage in conduct that endangers others or causes a public nuisance, or
- B. Allow any activity relating to the cultivation, manufacturing, testing, distribution, transportation, or use of cannabis that is otherwise illegal under California state law.

(Ord. No. 1178, § 2, 7-5-17)

5.96.020 - Definitions.

For the purposes of this chapter, the following definitions shall apply, unless the context clearly indicates otherwise. If a word is not explicitly defined in this chapter, the common and ordinary meaning of the word shall apply.

"Applicant" means a person applying for a regulatory permit under this chapter. An "applicant" includes all representatives, agents, parent entities, or subsidiary entities of the applicant.

"Cannabis" means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative,

mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from cannabis. "Cannabis" also means marijuana as defined in California Health and Safety Code Section 11018. "Cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this chapter, "cannabis" does not mean "industrial hemp" as defined by Section 81000 of the California Food and Agricultural Code or Section 11018.5 of the California Health and Safety Code.

"Cannabis products" has the same meaning as marijuana products in Section 11018.1 of the California Health and Safety Code. When the term "cannabis" is used in this chapter, it shall include "cannabis products."

"City manager" means the city manager of the city of Calexico or designee.

"Commercial cannabis activity" includes the cultivation, manufacture, distributing, laboratory testing, and transportation (including possession, processing, storing, and labeling incidental to such activities) of cannabis and cannabis products as provided in this chapter. "Commercial cannabis activity" does not include delivery, dispensing, or retail sale of cannabis or cannabis products.

"Cultivate" or "cultivation" means any commercial activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

"Delivery" means the commercial transfer of cannabis or cannabis products to a customer.

"Distribution" means the procurement, sale, and transport of cannabis and cannabis products between entities permitted or licensed under this chapter, another local California jurisdiction, or state law.

"Edible cannabis product" means manufactured cannabis that is intended to be used, in whole or in part, for human consumption, including, but not limited to, chewing gum, but excluding products set forth in Division 15 of the California Food and Agricultural Code. An edible cannabis product is not considered food as defined by Section 109935 of the California Health and Safety Code or a drug as defined by Section 109925 of the California Health and Safety Code. When the term "cannabis" is used in this chapter, it shall include "edible cannabis products."

"Manufacture" means to compound, blend, extract, infuse or otherwise make or prepare a cannabis product.

"Owner" means any of the following:

- A. All persons with an aggregate ownership interest of twenty percent or more in the applicant, unless such interest is solely a security, lien, or encumbrance;
- B. The chief executive officer of an entity or nonprofit;
- C. All members of the board of directors of a nonprofit; or
- D. An individual that will be participating in the direction, control, or management of the permitted commercial cannabis activity.

"Permittee" means the individual or applicant to whom a regulatory permit has been issued under this chapter. A permittee includes all representatives, agents, parent entities, or subsidiary entities of the permittee.

"Person" includes any individual, firm, co-partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular.

"Premises" means the designated structures and land specified in the regulatory permit application that are in the possession of an used by the applicant or permittee to conduct the commercial cannabis activity. The premises must be a contiguous area and may only be occupied by one licensee.

"Retailer" means a person or entity that sells cannabis or cannabis products to customers. The term "retailer" shall also include the term "dispensary," as defined under MCRSA.

"Testing" means subjecting cannabis to laboratory testing for active compounds and purity prior to distribution for consumption.

"Transportation" means transferring cannabis and/or cannabis products from one person or entity permitted under this chapter, permitted by another local California jurisdiction, and/or licensed under state law to another person or entity permitted under this chapter, permitted by another local California jurisdiction, and/or licensed under state law.

Words and phrases not specifically defined in this code shall have the meaning ascribed to them as defined in the following sources:

- A. The Compassionate Use Act of 1996 ("CUA");
- B. The Medical Marijuana Program ("MMP"); and
- C. The Medical Cannabis Regulation and Safety Act ("MCRSA"); and
- D. Control, Regulate, and Tax Adult Use of Marijuana Act ("AUMA").

(Ord. No. 1178, § 2, 7-5-17)

5.96.030 - Regulatory permit required.

Prior to initiating operations and as a continuing requisite to operating a commercial cannabis activity, the legal representative of the persons wishing to operate and/or lease out a facility for commercial cannabis activity shall first obtain a conditional use permit or fully execute a development agreement approved by city council or other entitlement as required under Title 17 (Zoning), Chapter 17.11, Article X and then obtain a regulatory permit from the city manager and shall pay an application fee as established by resolution adopted by the city council as amended from time to time.

(Ord. No. 1178, § 2, 7-5-17)

5.96.040 - Regulatory permit application.

An application for a regulatory permit shall include, but shall not be limited to, the following information:

- A. The name, address, and telephone number of the applicant.
- B. A description of the statutory entity or business form that will serve as the legal structure for the applicant and a copy of its formation and organizing documents, including, but not limited to, articles of incorporation, certificate of amendment, statement of information, articles of association, bylaws, partnership agreement operating agreement, and fictitious business name statement.
- C. The name, address, telephone number, title, and function of each of the interested parties described in Section 5.96.150.
- D. A legible copy of each applicant's photo identification, such as a state driver's license, a passport issued by the United States, or a permanent resident card.
- E.

A list of the license or permit types (including license or permit numbers) held by the applicant that involve the operation of a commercial cannabis activity, including the date the license or permit was issued and the jurisdiction or state license authority that issued the license or permit.

- F. Whether the applicant has been denied a license or permit by the city, any other jurisdiction, and/or the state that involves the operation of a commercial cannabis activity. The applicant shall provide a description of the license or permit applied for, the name of the jurisdiction or state license authority that reviewed the license or permit application, and the date of denial.
- G. The proposed commercial cannabis activity's physical address, telephone number, website address, and email address.
- H. Contact information for the applicant's designated primary contact person including the name, title, address, phone number, and email address of the individual.
- I. A list of every fictitious business name the applicant is operating under including the address where the business is located.
- J. Financial information including the following:
 - 1. A list of funds belonging to the commercial cannabis business held in savings, checking, or other accounts maintained by a financial institution. The applicant shall provide for each account, the financial institution's name, the financial institution's address, account type, account number, and the amount of money in the account.
 - 2. A list of loans made to the commercial cannabis business. For each loan, the applicant shall provide the amount of the loan, the date of the loan, term(s) of the loan, security provided for the loan, and the name, address, and phone number of the lender.
 - 3. A list of investments made into the commercial cannabis business. For each investment, the applicant shall provide the amount of the investment, the date of the investment, term(s) of the investment, and the name, address, and phone number of the investor.
 - 4. A list of all gifts of any kind given to the applicant for its use in conducting commercial cannabis activity. For each gift the applicant shall provide the value of the gift or description of the gift, and the name, address, and phone number of the provider of the gift.
- K. A copy of the applicant's completed application for electronic fingerprint images

submitted to the Department of Justice and Federal Bureau of Investigation.

- L. A list of each applicant's misdemeanor and felony convictions, if any. For each conviction, the list must set forth the date of arrest, the offense charged, the offense convicted, the jurisdiction of the court, and whether the conviction was by verdict, plea of guilty, or plea of nolo contendere.
- M. A complete and detailed diagram of the proposed premises showing the boundaries of the property and the proposed premises to be permitted, showing all boundaries, dimensions, entrances and exits, interior partitions, walls, rooms, windows, doorways, and common or shared entryways, storage areas and exterior lighting. The diagram must show the areas in which all commercial cannabis activity will take place, including, but not limited to, limited-access areas.
- N. A detailed security plan outlining the measures that will be taken to ensure the safety of persons and property on the premises. As part of the security plan, a lighting plan is required that shows existing and proposed exterior and interior lighting that will provide adequate security lighting for the commercial cannabis activity and premises. The security plan must be prepared by a qualified professional and include provisions in compliance with the following:
 - 1. Security cameras shall be installed and maintained in good condition, and used in an on-going manner with at least two hundred forty concurrent hours of digitally recorded documentation in a format approved by the city manager. The cameras shall be in use twenty-four hours per day, seven days per week. The areas to be covered by the security cameras shall include, but are not limited to, the public areas, storage areas, employee areas, all doors and windows, and any other areas as determined to be necessary by the city manager.
 - 2. The premises shall be alarmed with an audible interior and exterior alarm system, unless waived for extenuating circumstances by the city manager that is operated and monitored by a recognized security company, deemed acceptable by the city manager. Any change in the security company shall be subject to the approval of the city manager. All current contact information regarding the security company shall be provided to the city manager.
 - 3. Entrance to the cultivation, manufacturing, and testing areas and any storage areas shall be locked at all times, and under the control of cannabis facility staff.
 - 4. All cannabis shall be securely stored, and a reliable, commercial alarm system shall be installed and maintained where the cannabis is secured.

5. A licensed security guard, licensed by the California Department of Consumer Affairs, shall be present at the premises during all hours of operation. If the security guard is to be armed, then the security guard shall possess at all times a valid security guard card and firearms permit issued by the California Department of Consumer Affairs.
 6. A heavy-gauge chain-link (or other material as approved by the city manager) fence a minimum of eight-feet in height shall be constructed around the perimeter of the premises to prevent public access and obscure the cannabis cultivation facility from public view. Screening can include landscaping or vinyl slats, as permitted by law enforcement.
- O. An odor control plan that describes the air treatment system or other methods that will be implemented to prevent odors generated by the commercial cannabis activity from being detected outside the building(s) on the premises.
- P. A comprehensive business operations plan that includes the following:
1. Business Plan. A plan describing how the commercial cannabis activity business will operate in accordance with this code, state law, and other applicable regulations. The business plan must include plans for handling cash and transporting cannabis and cannabis products to and from the premises, if applicable.
 2. Community Relations Plan. A plan describing who is designated as being responsible for outreach and communication with the surrounding community, including the neighborhood and businesses, and how the designee can be contacted.
 3. Neighborhood Responsibility Plan. A plan addressing any adverse impacts of the proposed commercial cannabis activity on the surrounding area.
 4. Insurance. The applicant's certificate of commercial general liability insurance and endorsements and certificates of all other insurance related to the operation of the commercial cannabis activity.
 5. Budget. A copy of the applicant's most recent annual budget for operations.
- Q. The name and address of the owner and lessor of the real property upon which the commercial cannabis activity is to be operated. In the event the applicant is not the legal owner of the property, the application must be accompanied with a notarized acknowledgement from the owner of the property that a commercial cannabis activity will be operated on his or her property.

- R. Authorization for the city manager to seek verification of the information contained within the application.
- S. A statement in writing by the applicant that he or she certifies under penalty of perjury that all the information contained in the application is true and correct.
- T. A full and complete copy of the applicant's most current application submitted to and approved by the applicable state licensing authority.
- U. Any such additional and further information as is deemed necessary by the city manager to administer this chapter.

(Ord. No. 1178, § 2, 7-5-17)

5.96.050 - Background check.

The city will provide each applicant, including any management personnel who are responsible for the day-to-day operations of the commercial cannabis activity, with a 'request for live scan service' form, which must be taken to a live scan operator for fingerprinting. Each applicant must submit their fingerprint images to the Calexico Police Department, California Department of Justice, and the Federal Bureau of Investigation for fingerprint-based criminal history records review and reporting to the city.

(Ord. No. 1178, § 2, 7-5-17)

5.96.060 - Additional terms and conditions.

Based on the information set forth in the application, the city manager may impose reasonable terms and conditions on the proposed operations of the commercial cannabis activity in addition to those specified in this chapter.

(Ord. No. 1178, § 2, 7-5-17)

5.96.070 - Regulatory permit denial.

The city manager may deny an application for a regulatory permit or renewal of a regulatory permit upon making any of the following findings:

- A. The applicant or the premises for which a regulatory permit is applied does not qualify for a permit under this chapter.

- B. The applicant fails to comply with the provisions of this chapter.
- C. The applicant has failed to provide information required by the city manager.
- D. The applicant or permittee has been convicted of an offense that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, except that if the city manager determines that the applicant or permittee is otherwise suitable to be issued a license and granting the license would not compromise public safety, the city manager shall conduct a thorough review of the nature of the crime, conviction, circumstances, and evidence of rehabilitation of the applicant, and shall evaluate the suitability of the applicant or permittee to be issued a permit based on the evidence found through the review. In determining which offenses are substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, the city manager shall include, but not be limited to, the following:
 - 1. A felony conviction for the illegal possession for sale, sale, manufacture, transportation, or cultivation of a controlled substance.
 - 2. A violent felony conviction, as specified in subdivision (c) of Section 667.5 of the Penal Code.
 - 3. A serious felony conviction, as specified in subdivision (c) of Section 1192.7 of the California Penal Code.
 - 4. A felony conviction involving fraud, deceit, or embezzlement.
- E. The applicant, or any of its officers, directors, or owners, has been sanctioned by a state licensing authority or a city, county, or city and county for unlicensed commercial cannabis activities or has had a state license revoked in the three years immediately preceding the date the application is filed with the city manager.
- F. The commercial cannabis activity is not properly organized or operating in strict compliance pursuant to the Compassionate Use Act of 1996, the Medical Marijuana Program Act, the 2008 Attorney General Guidelines, Medical Marijuana Regulation and Safety Act (AB 243, AB 266, and SB 643), Control, Regulate, and Tax Adult Use of Marijuana Act ("AUMA"), and any other applicable law, rules and regulations.

(Ord. No. 1178, § 2, 7-5-17)

5.96.080 - Regulatory permit term.

A regulatory permit is valid for two years from the date that the permit is issued, unless

suspended or revoked sooner.

(Ord. No. 1178, § 2, 7-5-17)

5.96.090 - Regulatory permit renewal process.

- A. To renew a regulatory permit, a completed permit renewal form and renewal permit fee shall be received by the city manager from the permittee no earlier than sixty calendar days before the expiration of the permit and no later than the last business day before the expiration of the permit.
- B. In the event the regulatory permit is not renewed prior to the expiration date, the permittee must cease all commercial cannabis activity.

(Ord. No. 1178, § 2, 7-5-17)

5.96.100 - Regulatory permit surrender.

Every permittee who surrenders, abandons, or quits the permitted premises after a certificate of occupancy is issued, or who closes the permitted premises for a period exceeding thirty consecutive calendar days after a certificate of occupancy is issued, shall, within thirty calendar days after closing, surrendering, quitting, or abandoning the permitted premises, surrender the permit to the city manager. The city manager may seize the permit of a permittee who fails to comply with the surrender provisions of this section and may proceed to revoke the permit.

(Ord. No. 1178, § 2, 7-5-17)

5.96.110 - Regulatory permit suspension and revocation.

The city manager may suspend, modify, or revoke a cannabis cultivation permit issued pursuant to the provisions of this chapter for any of the following reasons:

- A. One or more of the circumstances upon which a regulatory permit could be denied exists or has occurred;
- B. One or more conditions of the regulatory permit has been violated; or
- C. The permittee, its owners, officers, directors, partners, agents, or other persons vested with the authority to manage or direct the affairs of the business have violated any provision of this chapter.

(Ord. No. 1178, § 2, 7-5-17)

5.96.120 - Appeals.

Any decision regarding the denial, suspension, or revocation of a regulatory permit may be appealed to a hearing officer. Notice of and the procedures governing such hearing shall be provided pursuant to Title 1, Chapter 1.26. The appellant shall request an appeal within thirty calendar days from the date of the decision.

(Ord. No. 1178, § 2, 7-5-17)

5.96.130 - Operating standards.

- A. Indoor Cultivation Only. A permittee shall only cultivate cannabis in a fully enclosed and secure building. A permittee shall not allow cannabis or cannabis products on the premises to be visible from the public right-of-way, the unsecured areas surrounding the buildings on the premises, or the premises' main entrance and lobby.
- B. Odor Control. A permittee shall comply with the odor control plan that is submitted during the application process and approved by the city manager. Commercial cannabis activity premises shall provide a sufficient odor absorbing ventilation and exhaust system so that odor generated inside the building(s) that is distinctive to its operation is not detected outside the premises, anywhere on adjacent property or public rights-of-way, on or about any exterior or interior common area walkways, hallways, breezeways, foyers, lobby areas, or any other areas available for common use by tenants or the visiting public, or within any other unit located within the same building as the commercial cannabis activity. As such, applicants must install and maintain the following equipment or any other equipment which the city manager or designee determines has the same or better effectiveness:
 - 1. An exhaust air filtration system with odor control that prevents internal odors from being emitted externally; or
 - 2. An air system that creates negative air pressure between the cannabis facility's interior and exterior so that the odors generated inside the cannabis facility are not detectable outside the cannabis facility.

Should compliance with the odor control plan fail to properly control odor, the city manager may impose additional or modified plan restrictions.

C.

"Seed to Sale" or "Track and Trace." Commercial cannabis activity businesses shall have an electronic 'seed to sale' or 'track and trace' system that produces historical transactional data for review by the city manager for auditing purposes.

- D. Records. A commercial cannabis activity business shall maintain the following records in printed format for at least three years on the premises and shall produce them to the city within twenty-four hours after receipt of the city's request:
1. The name, address, and telephone numbers of the owner and landlord of the property.
 2. The name, date of birth, address, and telephone number of each manager and staff of the commercial cannabis activity business; the date each was hired; and the nature of each manager's and staff's participation in the business.
 3. A written accounting of all income and expenditures of the commercial cannabis activity business, including, but not limited to, cash and in-kind transactions.
 4. A copy of the commercial cannabis activity business' commercial general liability insurance policy and all other insurance policies related to the operation of the business.
 5. A copy of the commercial cannabis activity business' most recent year's financial statement and tax return.
 6. An inventory record documenting the dates and amounts of cannabis received at the premises, the daily amounts of cannabis on the premises, and the daily amounts of cannabis transported from the premises.

A commercial cannabis activity business shall report any loss, damage, or destruction of these records to the city manager within twenty-four hours of the loss, damage, or destruction.

- E. Security. A permittee shall comply with the security plan that is submitted during the application process as approved by the city manager. A permittee shall report to the Calexico Police Department all criminal activity occurring on the premises. Should compliance with the security plan fail to properly secure the commercial cannabis activity premises, the city manager may impose additional or modified plan restrictions.
- F. Retail Sales Prohibited. No person shall conduct any retail sales of any good or services on or from permitted premises.
- G. Cannabis Consumption Prohibited. No person shall smoke, ingest, or otherwise consume cannabis in any form on, or within twenty feet of, the premises.
- H. Alcohol Prohibited. No person shall possess, consume, or store any alcoholic beverage on the cultivation premises.

- I. Juveniles Prohibited. No one under the age of eighteen shall be on the commercial cannabis activity premises or operate a commercial cannabis activity in any capacity, including, but not limited to, as a manager, staff, employee, contractor, or volunteer.

(Ord. No. 1178, § 2, 7-5-17)

5.96.140 - Building standards.

A building that houses a commercial cannabis activity shall comply with the following requirements:

- A. Entrances. All entrances into the buildings on the premises shall be locked at all times with entry controlled by the permittee's managers and staff. Codes for entry shall be provided to law enforcement and fire protection personnel to allow access to the buildings twenty-four-hours a day, seven days a week.
- B. Main Entrance and Lobby. The premises shall have a building with a main entrance that is clearly visible from the public street or sidewalk. The main entrance shall be maintained clear of barriers, landscaping, and other obstructions. Inside of the main entrance, there shall be a lobby to receive persons into the premises and to verify whether they are allowed in the building.
- C. Activity Area. All cultivation, manufacturing, or testing areas in any building on the premises shall be separated from the main entrance and lobby, and shall be secured by a lock accessible only to managers and staff of the permittee.

(Ord. No. 1178, § 2, 7-5-17)

5.96.150 - Interested parties.

- A. A permittee shall provide the city with names and addresses of all of the following interested parties:
 1. Persons with at least a ten percent interest in the commercial cannabis activity;
 2. Partners, officers, directors, and stockholders of every corporation, limited liability company, or general or limited partnership that owns at least ten percent of the stock, capital, profits, voting rights, or membership interest of the commercial cannabis activity or that is one of the partners in the commercial cannabis activity;
 3. The managers of the commercial cannabis activity; and
 4. The staff of the commercial cannabis activity.

- B. The permittee shall notify the city of any change in the information above within thirty calendar days of the change.
- C. All interested parties, as described in subsection A, must submit to fingerprinting and a criminal background check by the city.
- D. No person shall be an interested party, as described in subsection A, if he or she is charged with or convicted of a felony; has been charged with or convicted of a violation of California Penal Code section 186.22 (participation in a criminal street gang); or is currently on parole or probation for an offense relating to the sale or distribution of a controlled substance. "Convicted" within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere was entered, but does not include any plea, verdict, or conviction that is expunged pursuant to California law or a similar federal or state law where the expungement was granted. "Charged" within the meaning of this section means:
 - 1. An indictment was issued by a grand jury, or an information, complaint, or similar pleading was issued by the United States Attorney, district attorney, city attorney, or other governmental official or agency authorized to prosecute crimes; and
 - 2. The criminal proceedings are currently pending.

(Ord. No. 1178, § 2, 7-5-17)

5.96.160 - Premises restricted.

- A. No permittee shall open their commercial cannabis activity premises to the public.
- B. No permittee shall allow anyone on the premises, except for managers, staff, and other persons with a bona fide business or regulatory purpose for being there, such as contractors, inspectors, and cannabis transporters.
- C. A manager must be on the premises at all times that any other person, except for security guards, is on the premises.

(Ord. No. 1178, § 2, 7-5-17)

5.96.170 - Emergency contact manager.

A commercial cannabis activity permittee shall provide the city manager with the current name and primary and secondary telephone numbers of at least one twenty-four-hour on-call manager to address and resolve complaints and to respond to operating problems or concerns associated with the commercial cannabis activity.

(Ord. No. 1178, § 2, 7-5-17)

5.96.180 - Community relations manager.

Each cannabis facility shall provide the city manager with the name, phone number, facsimile number, and email address of an on-site community relations or staff person or other representative to whom the city can provide notice if there are operating problems associated with the cannabis facility or refer members of the public who may have any concerns or complaints regarding the operation of the cannabis facility. Each cannabis facility shall also provide the above information to its business neighbors located within one hundred feet of the cannabis facility as measured in a straight line without regard to intervening structures, between the front doors of each establishment.

(Ord. No. 1178, § 2, 7-5-17)

5.96.190 - Display of regulatory permit.

The permittee shall display its current valid permit issued in accordance with this chapter inside the lobby or waiting area of the main entrance to the premises. The permit shall be displayed at all times in a conspicuous place so that it may be readily seen by all persons entering the premises.

(Ord. No. 1178, § 2, 7-5-17)

5.96.200 - Inspections and enforcement.

- A. Recordings made by security cameras at any commercial cannabis activity business shall be made immediately available to the city manager upon verbal request; no search warrant or subpoena shall be needed to view the recorded materials.
- B. The city manager shall have the right to enter all cannabis facilities from time to time unannounced for the purpose of making reasonable inspections to observe and enforce compliance with this chapter.
- C. Operation of the cannabis facility in non-compliance with any conditions of approval or the provisions of this chapter shall constitute a violation of the municipal code and shall be enforced pursuant to the provisions of this code.
- D. The city manager may summarily suspend or revoke a cannabis regulatory permit if any of the following, singularly or in combination, occur:

1. The city manager or designee determines that the commercial cannabis activity business has failed to comply with this chapter or any condition of approval or a circumstance or situation has been created that would have permitted the city manager or designee to deny the permit under Section 5.96.070;
2. Operations cease for more than thirty calendar days, including during change of ownership proceedings;
3. Ownership is changed without securing a regulatory permit;
4. The cannabis facility fails to maintain two hundred forty continuous hours of security recordings; or
5. The cannabis facility fails to allow inspection of the records, security recordings, the activity logs, or the premises by authorized city officials.

(Ord. No. 1178, § 2, 7-5-17)

5.96.210 - Permits not transferable.

Regulatory permits issued pursuant to this chapter are not transferable.

(Ord. No. 1178, § 2, 7-5-17)

5.96.220 - Limitations on city's liability.

To the fullest extent permitted by law, the city shall not assume any liability whatsoever, with respect to approving any regulatory permit pursuant to this chapter or the operation of any commercial cannabis activity approved pursuant to this chapter. As a condition of approval a regulatory permit as provided in this chapter, the applicant or its legal representative shall:

- A. Execute an agreement indemnifying the city from any claims, damages, etc., associated with the operation of the cannabis facility;
- B. Maintain insurance in the amounts and of the types that are acceptable to the city manager or designee;
- C. Name the city as an additionally insured on all city required insurance policies;
- D. Agree to defend, at its sole expense, any action against the city, its agents, officers, and employees related to the approval of a regulatory permit; and
- E.

Agree to reimburse the city for any court costs and attorney fees that the city may be required to pay as a result of any legal challenge related to the city's approval of a regulatory permit. The city may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve the operator of its obligation hereunder.

(Ord. No. 1178, § 2, 7-5-17)

5.96.230 - Compliance with state law.

All commercial cannabis activity shall comply fully with all of the applicable restrictions and mandates set forth in state law, including without limitation the Compassionate Use Act of 1996, the Medical Marijuana Program Act, the 2008 Attorney General Guidelines, the Medical Cannabis Regulation and Safety Act, and the Control, Regulate, and Tax Adult Use of Marijuana Act.

(Ord. No. 1178, § 2, 7-5-17)

5.96.240 - Violations.

- A. Any violation of any of the provisions of this chapter is unlawful and a public nuisance.
- B. Any violation of any of the provisions of this chapter shall constitute a misdemeanor violation and upon conviction thereof any violation shall be punishable by a fine not to exceed one thousand dollars, or by imprisonment in the county jail for a period of not more than six months, or by both such fine and imprisonment. Each day a violation is committed or permitted to continue shall constitute a separate offense.
- C. In lieu of issuing a misdemeanor citation, the city may issue an administrative citation, and/or assess an administrative fine of up to one thousand dollars for each violation of this chapter.
- D. A separate offense occurs for each day any violation of this chapter is continued and/or maintained.
- E. The remedies provided herein are not to be construed as exclusive remedies, and in the event of violation, the city may pursue any proceedings or remedies otherwise provided by law.

(Ord. No. 1178, § 2, 7-5-17)

Memorandum

To: Councilmembers Phan and Nuñez
Members of the Subcommittee on Marijuana
From: Amanda Charne
Date: October 16, 2017
Re: Possible Cannabis Tax Measure
File No.: 38077.00100

BACKGROUND

At the October 9, 2017 Subcommittee on Marijuana meeting, you requested information regarding the various deadlines and procedures to enact a tax on cannabis businesses.

For reference, the current state taxes on cannabis are as follows:

- A 15% excise tax will be imposed on the retail sales of cannabis.¹
- Cultivation tax of \$9.25 per ounce of cannabis flower and \$2.75 per ounce of cannabis leaves will be imposed on harvested cannabis that enters the market.²
- State and local sales and use taxes will apply to cannabis sales.³ But, medical cannabis purchased with medical ID card is exempt from state and local sales and use taxes.⁴

ANALYSIS

In order to levy a cannabis-related local tax, the City Council must approve placing the tax as a measure on the local ballot for voter approval. Article XIII C of the California Constitution and Government Code section 53720 require voter approval for a tax of any kind imposed by a local government.

¹ Rev. & Tax. Code § 34011.

² Rev. & Tax. Code § 34012(a).

³ Rev. & Tax. Code § 34011(c).

⁴ Rev. & Tax. Code § 34011(f).

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ATTORNEYS AT LAW

General taxes, or taxes imposed for general governmental purposes, must be consolidated with the next regularly scheduled City Council election (except in cases of an emergency declared by unanimous vote of Council) and require a majority voter approval. Special taxes, or taxes imposed for specific purposes, may be placed on a local ballot at any time but require approval by a two-thirds vote of persons voting on the measure.⁵ A general tax may only be presented at an election if the ordinance or resolution proposing such tax is approved by at least a two-thirds vote of the City Council.⁶ The enclosed chart provides a visual breakout of the procedures required for general and specific taxes, and the deadlines to call an election to vote on the proposed tax measure.

There are two general types of taxes that have been enacted by local jurisdictions specific to cannabis businesses: (1) an annual business license tax imposed on commercial cannabis businesses, levied as a flat percentage of total gross receipts (“Gross Receipts Tax”); and (2) an annual tax imposed on cannabis businesses, in particular on commercial cultivators, levied as a flat dollar amount per square foot of the business activity (“Square Footage Tax”). Some information about local cannabis taxes that was prepared in February, 2017 by a group called the California Cannabis CPA is enclosed. Our office has not confirmed this information, but we hope you will find it helpful as a starting place to begin exploring local tax rates.

CONCLUSION

A tax must be proposed by an ordinance or resolution of the City Council.⁷ The City Attorney’s office would be pleased to prepare a draft tax ordinance for the City Council’s consideration.

ENCLOSURES:

- Procedures for Calling and Approving City General and Special Tax Measures
- *California Cannabis Taxes by City* by California Cannabis CPA, dated 2/22/2017

⁵ Cal. Const., Art. XIII C § 2; Gov. Code §§ 53721, 53724.

⁶ Gov. Code § 53724(b).

⁷ Gov. Code § 53724(a).

PROCEDURES FOR CALLING AND APPROVING
CITY GENERAL AND SPECIAL TAX MEASURES¹

The deadline to call any City measure (including a tax measure) is 88 calendar days prior to the scheduled election date. (Elec. Code §9222)

Upcoming Statutory Election Dates:

Poll/Precinct Election Dates (Elec. Code §1000):

April 10, 2018	[deadline to call: January 12, 2018]	
June 5, 2018	[deadline to call: March 9, 2018]	
November 6, 2018	[deadline to call: August 10, 2018]	<i>[City Council Election²]</i>
June 4, 2019	[deadline to call: March 8, 2019]	

Mail Ballot (VBM) Election Dates (Elec. Code §§1500 & 4000(c)(8)):³

March 6, 2018	[deadline to call: December 8, 2017]
May 8, 2018	[deadline to call: February 9, 2018]
August 28, 2018	[deadline to call: June 1, 2018]

	Council Approval Threshold to Call Election	Voter Approval Threshold to Pass Tax Measure
General Tax (Revenues may be spent for any public purpose)	1.) If the election is to be held at the same time as a City Council election: <u>2/3 supermajority</u> of “all members” of the Council is required. (Govt. Code §53724(b) – “Proposition 62”) 2.) If the election is to be held on any other statutory election date: <u>Unanimous vote</u> of the Council is required, with adoption of “emergency” findings. (Calif. Const. Art. XIIC §2(b) – “Proposition 218”)	Simple majority approval of voters required. (Calif. Const. Art. XIIC §2(b) – “Proposition 218”)
Special Tax (Spending limited to public purpose(s) set forth in taxing ordinance – e.g.: public safety)	Simple majority of the Council is required to place a special tax measure on any statutory election date. (Calif. Const. Art. XIIC §2(d) – “Proposition 218”) <i>Exception:</i> A special transactions and use tax measure still requires a 2/3 Council supermajority of “all members” of the Council to be placed on any statutory election date. ⁴ (Revenue and Taxation Code §7285.91)	2/3 supermajority approval of voters required. (Calif. Const. Art. XIIC §2(d) – “Proposition 218”)

¹ This document describes the procedures applicable to general law cities. Charter cities have greater autonomy over statutory election rules.
² Per Milpitas Muni. Code Section I-200-1.00 all general municipal elections for the City of Milpitas shall be held on the same day as the state-wide general election.
³ A general tax would not be eligible for a VBM election unless the City Council voted unanimously to have the election at a time other than the City Council election date based on a fiscal emergency.
⁴ This exception would not be applicable to a cannabis tax.

California Cannabis Taxes By City



(<http://www.californiacannabiscpa.com/blog/california-cannabis-taxes-by-city>)

2/22/2017

California City Taxes for Medical and Recreational Marijuana

In November 2016, California passed Proposition 64 ([https://ballotpedia.org/California_Proposition_64_Marijuana_Legalization_\(2016\)](https://ballotpedia.org/California_Proposition_64_Marijuana_Legalization_(2016))) which legalized recreational marijuana in the state of California. At the same time, voters voted on a number of city tax ordinances which were designed to apply local city taxes to the cultivation, manufacturing, distribution, and sales of medical and recreational marijuana.

With 482 municipalities in California in all, dozens of ballot measures were up for vote in November 2016. For several cities, we have provided summaries of each of the tax laws that have been passed below. While this is only a partial list of the measures that were passed it can help you to get a clearer picture of what taxes you will be required to pay based on where you locate your cannabis business.

- 
Adelanto. The city imposes a commercial marijuana activity excise tax ([https://ballotpedia.org/Adelanto_California_Marijuana_Excise_Tax_Measure_R_\(November_2016\)](https://ballotpedia.org/Adelanto_California_Marijuana_Excise_Tax_Measure_R_(November_2016))) of up to 5% of revenue. Taxable commercial marijuana activities include all business activities licensed, authorized, or otherwise permitted by State or local law, including the transportation/distribution, testing, and dispensing of marijuana.
- 
Carson. Carson imposes a tax ([https://ballotpedia.org/Carson_California_Marijuana_Business_Tax_Measure_KK_\(November_2016\)](https://ballotpedia.org/Carson_California_Marijuana_Business_Tax_Measure_KK_(November_2016))) of \$25 per square foot for marijuana cultivators and 18% of gross proceeds on all marijuana business activities pending the passage of a future ballot measure that permits such activities. The cultivation tax is adjusted annually based on the Consumer Price Index (CPI).
- Cathedral City.** The city's marijuana tax ([https://ballotpedia.org/Cathedral_City_California_Recreational_Marijuana_Tax_Measure_P_\(November_2016\)](https://ballotpedia.org/Cathedral_City_California_Recreational_Marijuana_Tax_Measure_P_(November_2016))), applied to both medical and recreational marijuana, is \$25 per square foot of cultivation space and \$1 per gram of cannabis concentrate and per unit of cannabis-infused product. The City Council retains the right to impose the tax at an amount that is lower than what has been approved by the voters.
- Coachella.** The city imposes a tax ([https://ballotpedia.org/Coachella_California_Marijuana_Tax_Measure_II_\(November_2016\)](https://ballotpedia.org/Coachella_California_Marijuana_Tax_Measure_II_(November_2016))) of \$15 per square foot on marijuana cultivation and manufacturing facilities. An additional tax

of 6% of revenue is charged on both medical and recreational marijuana sales. Coachella permits only wholesale marijuana activities not recreational sales.

- **Coalinga.** Measure E
 ([https://ballotpedia.org/Coalinga,_California,_Marijuana_Facility_Tax,_Measure_E_\(November_2016\)](https://ballotpedia.org/Coalinga,_California,_Marijuana_Facility_Tax,_Measure_E_(November_2016))) establishes an annual tax for commercial marijuana operations of \$25 per square foot for the first 3,000 square feet and \$10 per square foot for the additional remaining space for commercial marijuana operation spaces. Measure G
 ([https://ballotpedia.org/Coalinga,_California,_Authorize,_Regulate,_and_Tax_a_Single_Marijuana_Dispensary,_Measure_G_\(November_2016\)](https://ballotpedia.org/Coalinga,_California,_Authorize,_Regulate,_and_Tax_a_Single_Marijuana_Dispensary,_Measure_G_(November_2016))) authorized the operations of a single marijuana dispensary. The city imposes a tax of 10% of gross receipts on this marijuana dispensary. No other marijuana dispensaries would be allowed in the City of Coalinga.
- **Dixon.** The city imposes a 15% tax
 ([https://ballotpedia.org/Dixon,_California,_Marijuana_Business_Tax,_Measure_K_\(November_2016\)](https://ballotpedia.org/Dixon,_California,_Marijuana_Business_Tax,_Measure_K_(November_2016))) on the gross receipts of cannabis businesses and dispensaries if such businesses or dispensaries are approved to operate in the City of Dixon. Dixon passed an ordinance prohibiting cultivation and distribution of medical marijuana in January 2016.
- **Fillmore.** Under Measure I
 ([https://ballotpedia.org/Fillmore,_California,_Marijuana_Distribution_Tax,_Measure_I_\(November_2016\)](https://ballotpedia.org/Fillmore,_California,_Marijuana_Distribution_Tax,_Measure_I_(November_2016))), the city imposes a 15% on all medical and recreational marijuana sales within the city to be paid only by the marijuana business itself. Measure H
 ([https://ballotpedia.org/Fillmore,_California,_Marijuana_Cultivation_Tax,_Measure_H_\(November_2016\)](https://ballotpedia.org/Fillmore,_California,_Marijuana_Cultivation_Tax,_Measure_H_(November_2016))) enacts a permanent tax of \$30 per square foot for the first 3,000 square feet of space, and not to exceed \$15 per square foot for the remaining space on space used for cultivation by medical and recreational marijuana businesses. The tax will also increase every five years at the rate of the greater of CPI or \$1.00 and \$0.35. The sale of marijuana in Fillmore is currently prohibited by the Fillmore Municipal Code.
- **Gonzales.** The city imposes a tax
 ([https://ballotpedia.org/Gonzales,_California,_Medical_Marijuana_Tax,_Measure_W_\(November_2016\)](https://ballotpedia.org/Gonzales,_California,_Medical_Marijuana_Tax,_Measure_W_(November_2016))) on all cannabis cultivation and manufacturing businesses, which authorizes the city to charge an initial tax of \$15 per square foot of space dedicated to cannabis cultivation with the ability to raise this tax after three years up to a maximum of \$25 per square foot. In 2020, this cultivation tax will be subject to annual adjustments based on the CPI. It also establishes an initial tax rate of 5% on the annual gross receipts of cannabis manufacturers with the ability to raise this rate after 3 years to a maximum of 15% on gross receipts.
- **Greenfield.** The city imposes a tax on all for-profit and nonprofit cannabis cultivation businesses of \$15 per square foot of canopy space authorized by city permit until June 30, 2020. For every year thereafter, the tax would be increased by \$5 per square foot, not to exceed \$25 per square foot. On July 1, 2023, the tax would be increased annually according to the CPI for inflation. Initially, commercial nursery cannabis cultivation operations would pay an initial tax of \$2 per square foot of canopy space as authorized by city permit until June 30, 2020. Every year thereafter, the tax would be increased by \$1.50 per square foot, not to exceed \$5 per square foot. Then, starting on July 1, 2023, the tax would increase annually according to the

CPI for inflation. A commercial cannabis nursery is a business that produces only immature plants, seeds, or products that are used specifically for the planting, propagation, and cultivation of cannabis. The city imposes a general tax of \$5 on gross receipts per fiscal year on all other types of cannabis businesses. Beginning July 1, 2020, the tax rate would be increased by 2.5% per year, not to exceed a maximum tax rate of 10% per year.

- **Grover Beach.** Grover Beach imposes a tax at the rate of 5% of gross receipts on dispensaries, manufacturing, testing and other medical cannabis businesses and 10% of gross receipts on recreational cannabis businesses. The city imposes a tax of \$25 per square foot for the first 5,000 square feet and \$10 per additional square foot of cultivation space for cannabis cultivation and nursery businesses. The tax for both cultivation and nursery operations would be paid on the maximum canopy area permitted or licensed under state laws and city regulations, regardless of whether the grower utilizes the entire space. The tax is subject to annual CPI adjustments.
- **Hayward.** The passage of the ballot authorized the city to impose a general tax ([https://ballotpedia.org/Hayward,_California,_Marijuana_Tax,_Measure_EE_\(November_2016\)\)](https://ballotpedia.org/Hayward,_California,_Marijuana_Tax,_Measure_EE_(November_2016))) not to exceed 15% on the gross sales of the adult use of recreation and medical cannabis. The city may impose a tax rate that is lower than 15% at a later date.
- **King City.** King City ([https://ballotpedia.org/King_City,_California,_Marijuana_Business_Tax,_Measure_J_\(November_2016\)\)](https://ballotpedia.org/King_City,_California,_Marijuana_Business_Tax,_Measure_J_(November_2016))) imposes a tax on medical and recreational marijuana cultivation businesses at a rate of \$25 per square foot for the first 5,000 square feet and \$10 per square foot thereafter for cultivation. The tax may not exceed \$5 per square foot for nurseries; \$30,000 each for manufacturing and testing facilities. The tax is subject to an annual CPI-based adjustment for inflation. The tax for both cultivation and nursery operations starts at an initial rate of \$5 per square foot for the first 5,000 square feet and \$2.50 per square for any additional space. It would be paid on the maximum canopy area permitted or licensed under State laws and City regulations, regardless of whether the grower utilizes the entire space.
- **Long Beach.** Marijuana businesses, including cultivators, dispensaries, and manufacturers are required to pay taxes ([https://ballotpedia.org/Long_Beach,_California,_Marijuana_Business_Taxes,_Measure_MA_\(November_2016\)\)](https://ballotpedia.org/Long_Beach,_California,_Marijuana_Business_Taxes,_Measure_MA_(November_2016))) under Measure MM. For medical marijuana dispensaries this tax is a 6 to 8% tax on gross receipts. For recreational dispensaries, it is 10 to 12% on gross receipts. For cultivators, it is \$12 to \$15 per square foot of cultivation space. For marijuana manufacturers, it is 6 to 8% of gross receipts. Measure MM also amended the city's current marijuana business license tax, which was approved in 2014.
- **Perris.** The city imposes a tax ([https://ballotpedia.org/Perris,_California,_Medical_Marijuana_Dispensary_and_Cultivation_Tax,_Measure_J_\(November_2016\)\)](https://ballotpedia.org/Perris,_California,_Medical_Marijuana_Dispensary_and_Cultivation_Tax,_Measure_J_(November_2016))) of \$25 per square foot on medical marijuana cultivators and 10% of monthly business revenue for medical marijuana dispensaries. The tax on medical marijuana dispensaries is not a sales tax.
- **Pittsburg.** The city imposes a tax (https://ballotpedia.org/Pittsburg,_California,_Marijuana_Business_Tax,_Measure_J_

(November_2016)) on all for-profit and nonprofit medical and recreational marijuana businesses within the city of no more than 10% of gross receipts. Personal cultivation of marijuana that is not sold, bartered or exchanged is excluded from this tax.

- **Point Arena.** The city imposes a maximum tax ([https://ballotpedia.org/Point_Arena,_California,_Marijuana_Business_Tax,_Measure_AE_\(November_2016\)\)](https://ballotpedia.org/Point_Arena,_California,_Marijuana_Business_Tax,_Measure_AE_(November_2016))) on recreational cannabis businesses of \$0.10 for each \$1 or fractional part of the business proceeds. For medical marijuana/cannabis businesses, the tax would not be more than \$0.03 for each \$1 or fractional part thereof. The City Council retains the authority to periodically adjust the tax rates as long as the rate does not exceed these maximum rates with any increases in the maximum rates to be approved by the voters.
- **Salinas.** For both for-profit and not-for-profit cultivation businesses, the city imposes a general tax ([https://ballotpedia.org/Salinas,_California,_Marijuana_Business_Tax,_Measure_L_\(November_2016\)\)](https://ballotpedia.org/Salinas,_California,_Marijuana_Business_Tax,_Measure_L_(November_2016))) of \$15 per square foot of canopy area. After three years, the tax rate automatically increases to \$25 per square foot of canopy area and is automatically adjusted based on the CPI. For marijuana dispensaries, manufacturing, and delivery businesses, the city imposes a tax rate of 5% of gross revenues. After three years, this tax rate automatically increases to 10% of gross revenue for these businesses.
- **San Diego.** The city imposes a tax, ranging from 5 to 15% on the gross receipts ([https://ballotpedia.org/San_Diego,_California,_Non-medical_Marijuana_Tax,_Measure_N_\(November_2016\)\)](https://ballotpedia.org/San_Diego,_California,_Non-medical_Marijuana_Tax,_Measure_N_(November_2016))) of recreational marijuana businesses.
- **San Jacinto.** The city imposes a gross receipts tax of up to 15% and up to a \$50 per square foot cultivation/manufacturing tax on all commercial marijuana and marijuana-containing product businesses in the city. In 2016, the San Jacinto City Council adopted a comprehensive ban on all marijuana uses. However, under Proposition 64, the city is required to reasonably allow indoor cultivation of medical and recreational marijuana.
- **San Leandro.** The city imposes a 10% tax on gross receipts ([https://ballotpedia.org/San_Leandro,_California,_Marijuana_Business_Tax,_Measure_NN_\(November_2016\)\)](https://ballotpedia.org/San_Leandro,_California,_Marijuana_Business_Tax,_Measure_NN_(November_2016))) for all for-profit and non-profit medical and recreational marijuana businesses.
- **Santa Barbara.** The city imposes a 20% maximum tax ([https://ballotpedia.org/Santa_Barbara,_California,_Marijuana_Business_Tax,_Measure_D2016_\(November_2016\)\)](https://ballotpedia.org/Santa_Barbara,_California,_Marijuana_Business_Tax,_Measure_D2016_(November_2016))) on gross receipts for all medical and recreational marijuana businesses.
- **Santa Cruz.** The city imposes an initial tax rate ([https://ballotpedia.org/Santa_Cruz,_California,_Marijuana_Tax_Amendment,_Measure_I_\(November_2016\)\)](https://ballotpedia.org/Santa_Cruz,_California,_Marijuana_Tax_Amendment,_Measure_I_(November_2016))) of 7% of gross receipts for cannabis businesses operating in the city with a maximum tax rate of 10%. The ordinance includes both for-profit and nonprofit medical and recreational cannabis businesses.
- **Stockton.** The city has increased its business license tax rate ([https://ballotpedia.org/Stockton,_California,_Medical_Marijuana_Business_Tax,_Measure_Q_\(November_2016\)\)](https://ballotpedia.org/Stockton,_California,_Medical_Marijuana_Business_Tax,_Measure_Q_(November_2016))) to a minimum of \$5 and maximum of \$50 per \$1,000 of annual gross receipts for medical marijuana businesses.

- **Watsonville.** The city imposes a tax ([https://ballotpedia.org/Watsonville,_California,_Marijuana_Business_Tax,_Measure_L_\(November_2016\)\)](https://ballotpedia.org/Watsonville,_California,_Marijuana_Business_Tax,_Measure_L_(November_2016))) on marijuana cultivation at a maximum rate of \$20 per square foot per year of canopy area and maximum rate of 2.5% of gross receipts from the manufacture or processing of cannabis. From the sale of cannabis, the city imposes a tax of a maximum of 10% on gross receipts.

The California medical sales tax rate is 7.60%. The majority of these ballot measures do not address the sale of recreational marijuana directly because they left it up to the passage of state laws and/or additional city ordinances to determine whether or not recreational cannabis would be considered legal in their municipalities.

With the passage of Proposition 64, in many cases, these city ordinances now also apply to recreational cannabis businesses. For more specific details, please check with each city to determine the exact ordinances that apply to your medical or recreational cannabis business.

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CALIFORNIA DEPARTMENT OF
FOOD & AGRICULTURE



CalCannabis Cultivation Licensing, a division of the California Department of Food and Agriculture, is preparing to accept applications for medicinal and adult-use (recreational) cannabis cultivation licenses beginning **January 1, 2018**.

What CalCannabis Is Working on Now

- ✓ Developing **regulations** to license cultivators of medicinal and adult-use (recreational) cannabis
- ✓ Conducting a statewide **Program Environmental Impact Report (PEIR)** to determine and mitigate any potentially significant environmental impacts of cannabis cultivation
- ✓ Implementing an **online licensing program** and a **track-and-trace system** to record the movement of cannabis through the supply chain — from cultivation to sale

The Three Licensing Authorities

Bureau

BUREAU OF CANNABIS CONTROL

Housed within the **Department of Consumer Affairs**, the bureau licenses testing labs, distributors, dispensaries, and microbusinesses.

☎ 800-952-5210
✉ bcc@dca.ca.gov
💻 bcc.ca.gov

CalCannabis

CALCANNABIS CULTIVATION LICENSING

Housed within the **Department of Food and Agriculture**, CalCannabis licenses cannabis cultivators and establishes a track-and-trace system.

☎ 1-833-CALGROW (225-4769)
✉ calcannabis@cdfa.ca.gov
💻 calcannabis.cdfa.ca.gov

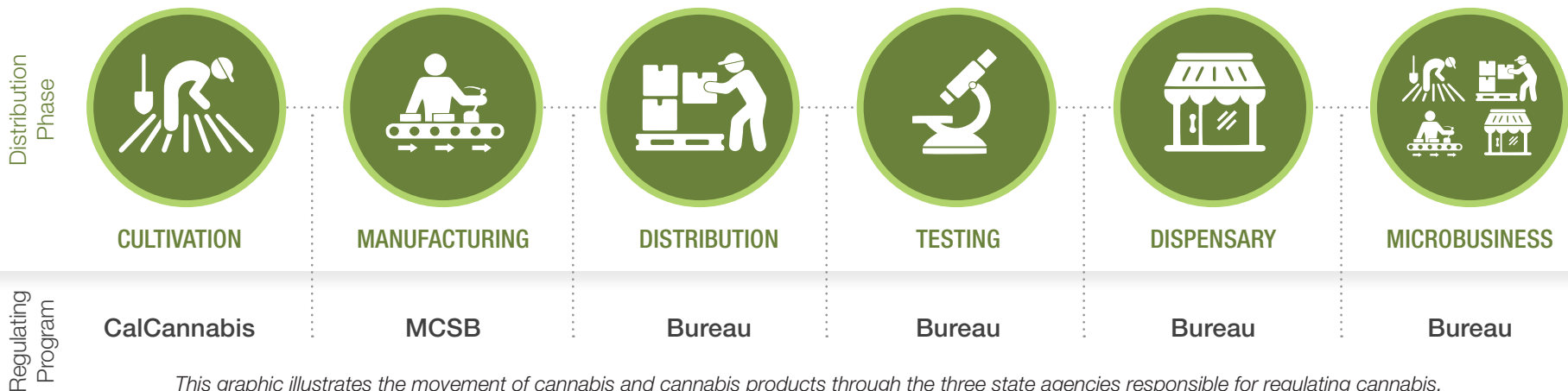
MCSB

MANUFACTURED CANNABIS SAFETY BRANCH

Housed within the **Department of Public Health**, MCSB licenses manufacturers of cannabis products, such as edibles.

☎ 916-440-7861
✉ mcsb@cdph.ca.gov
💻 cdph.ca.gov/mcsb

Who Does What



This graphic illustrates the movement of cannabis and cannabis products through the three state agencies responsible for regulating cannabis.



CALIFORNIA DEPARTMENT OF
FOOD & AGRICULTURE



CalCannabis Cultivation Licensing is developing the regulations that will define the cannabis cultivation licensing process, as required by California state law.

The Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA)

Earlier this spring, the Department of Food and Agriculture's CalCannabis Cultivation Licensing program, the Department of Consumer Affairs' Bureau of Cannabis Control, and the Department of Public Health's Manufactured Cannabis Safety Branch released draft regulations for the Medical Cannabis Regulation and Safety Act of 2015. These licensing authorities held several public hearings to accept oral and written comments regarding the draft regulations.

The licensing authorities had planned to move forward with a separate draft regulatory package for implementation of Proposition 64: The Adult Use of Cannabis Act of 2016. However, in June 2017, the Legislature passed and the Governor signed into law the **Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA)**, which creates one regulatory system for both medicinal and adult-use (recreational) cannabis.

As a result, the three cannabis licensing authorities have withdrawn the proposed medical cannabis regulations and are now drafting emergency regulations based on the new law for the commercial medicinal and adult-use (recreational) cannabis industries. During this process, the licensing authorities will consider the valuable public comments received earlier this year regarding the draft medicinal cannabis regulations.

The licensing authorities will use the emergency rulemaking process to establish the new regulations, followed by the formal rulemaking process. The emergency regulations are expected to be published in late November 2017.



For more information on cannabis cultivation licensing:
cannabis.cdfa.ca.gov



For details on other types of state cannabis licensing:
cannabis.ca.gov